

E2SHB 2346 - S COMM AMD

By Committee on Energy, Environment & Telecommunications

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
4 that stimulating local investment in distributed renewable energy
5 generation is an important part of a state energy strategy, helping
6 to increase energy independence from fossil fuels, promote economic
7 development, hedge against the effects of climate change, and attain
8 environmental benefits. The legislature intends to increase the
9 effectiveness of the existing renewable energy investment cost
10 recovery program by reducing the maximum incentive rate provided for
11 each kilowatt-hour of electricity generated by a renewable energy
12 system over the period of the program and by creating opportunities
13 for broader participation by low-income individuals and others who
14 may not own the premises where a renewable energy system may be
15 installed. The legislature intends to provide an incentive sufficient
16 to promote installation of systems through 2020, at which point the
17 legislature expects that the state's renewable energy industry will
18 be capable of sustained growth and vitality without the cost recovery
19 incentive.

20 (2) This section expires immediately if the department of
21 ecology: (a) Adopts, adopts with revisions, or enforces the proposed
22 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
23 WAC (reporting of emissions of greenhouse gases), published in the
24 Washington state register, WSR 16-02-101; or (b) adopts or enforces a
25 rule that establishes a statewide program to set a limit, cap, or
26 emissions standard designed to control the amount of greenhouse gas
27 emissions occurring during a period of time, including a rule
28 establishing individualized greenhouse gas emissions reduction
29 pathways for covered parties. For the purposes of this subsection,
30 "greenhouse gas" has the same meaning as defined in RCW 70.235.010.
31 The department of ecology must provide notice of the expiration date

1 of this section to affected parties, the chief clerk of the house of
2 representatives, the secretary of the senate, the office of the code
3 reviser, and others as deemed appropriate by the department of
4 ecology.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16
6 RCW to read as follows:

7 (1) This section is the tax preference performance statement for
8 the tax preference and incentives created under RCW 82.16.130 and
9 section 7 of this act. This performance statement is only intended to
10 be used for subsequent evaluation of the tax preference and
11 incentives. It is not intended to create a private right of action by
12 any party or be used to determine eligibility for preferential tax
13 treatment.

14 (2) The legislature categorizes the tax preference created under
15 RCW 82.16.130 and incentive payments authorized in section 7 of this
16 act as intended to:

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

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

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

23 (a) Increase energy independence from fossil fuels; and

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

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

29 (4) It is the legislature's intent to provide the incentives in
30 section 7 of this act and RCW 82.16.130 in order to ensure the
31 sustainable job growth and vitality of the state's renewable energy
32 sector. The purpose of the incentive is to reduce the costs
33 associated with installing and operating solar energy systems by
34 persons or entities receiving the incentive.

35 (5) As part of its 2019 tax preference reviews conducted under
36 chapter 43.136 RCW, the joint legislative audit and review committee
37 must review the tax preferences and incentives in section 7 of this
38 act and RCW 82.16.130. The legislature intends for the legislative

1 auditor to determine that the incentive has achieved its desired
2 outcomes if the following objectives are achieved:

3 (a) Achievement of two hundred megawatts of solar photovoltaic
4 capacity in Washington by 2020; and

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

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

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

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

18 (7) The Washington State University extension energy program
19 shall collect, through the application process, data from persons
20 claiming the tax credit under RCW 82.16.130 and persons receiving the
21 incentive payments created in section 7 of this act, as necessary,
22 and may collect data from other interested persons as necessary to
23 report on the performance of this act.

24 (8) All recipients of tax credits or incentive payments awarded
25 under this chapter must provide necessary data requested by the
26 Washington State University extension energy program or the joint
27 legislative audit and review committee. Failure to comply may result
28 in the loss of a tax credit award or incentive payment in the
29 following year.

30 (9) This section expires immediately if the department of
31 ecology: (a) Adopts, adopts with revisions, or enforces the proposed
32 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
33 WAC (reporting of emissions of greenhouse gases), published in the
34 Washington state register, WSR 16-02-101; or (b) adopts or enforces a
35 rule that establishes a statewide program to set a limit, cap, or
36 emissions standard designed to control the amount of greenhouse gas
37 emissions occurring during a period of time, including a rule
38 establishing individualized greenhouse gas emissions reduction
39 pathways for covered parties. For the purposes of this subsection,
40 "greenhouse gas" has the same meaning as defined in RCW 70.235.010.

1 The department of ecology must provide notice of the expiration date
2 of this section to affected parties, the chief clerk of the house of
3 representatives, the secretary of the senate, the office of the code
4 reviser, and others as deemed appropriate by the department of
5 ecology.

6 **Sec. 3.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to
7 read as follows:

8 (1)(a) Any individual, business, local governmental entity, not
9 in the light and power business or in the gas distribution business,
10 or a participant in a community solar project may apply to the light
11 and power business serving the situs of the system, each fiscal year
12 beginning on July 1, 2005, and ending June 30, 2016, for an
13 investment cost recovery incentive for each kilowatt-hour from a
14 customer-generated electricity renewable energy system.

15 (b) In the case of a community solar project as defined in RCW
16 82.16.110(2)(a)(i), the administrator must apply for the investment
17 cost recovery incentive on behalf of each of the other owners.

18 (c) In the case of a community solar project as defined in RCW
19 82.16.110(2)(a)(iii), the company owning the community solar project
20 must apply for the investment cost recovery incentive on behalf of
21 each member of the company.

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

30 (b) No person may submit a certification to the department under
31 (a) of this subsection after June 30, 2016.

32 (c) The certification must include:

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

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

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

4 (ii) The applicant's tax registration number;

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

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

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

12 (C) A solar inverter manufactured in Washington state;

13 (D) A solar module manufactured in Washington state;

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

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

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

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

23 ~~((b))~~ (d) Within thirty days of receipt of the certification
24 the department of revenue must notify the applicant by mail, or
25 electronically as provided in RCW 82.32.135, whether the renewable
26 energy system qualifies for an incentive under this section. The
27 department may consult with the climate and rural energy development
28 center to determine eligibility for the incentive. System
29 certifications and the information contained therein are not
30 confidential tax information under RCW 82.32.330 and are subject to
31 disclosure ~~((under RCW 82.32.330(3)(1))~~).

32 (3)(a) By August 1st of each year through August 1, 2016, the
33 application for the incentive must be made to the light and power
34 business serving the situs of the system by certification in a form
35 and manner prescribed by the department that includes, but is not
36 limited to, the following information:

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

39 (A) If the applicant is an administrator of a community solar
40 project as defined in RCW 82.16.110(2)(a)(i), the application must

1 also include the name and address of each of the owners of the
2 community solar project.

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

6 (ii) The applicant's tax registration number;

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

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

12 (b) Within sixty days of receipt of the incentive certification
13 the light and power business serving the situs of the system must
14 notify the applicant in writing whether the incentive payment will be
15 authorized or denied. The business may consult with the climate and
16 rural energy development center to determine eligibility for the
17 incentive payment. Incentive certifications and the information
18 contained therein are not confidential tax information under RCW
19 82.32.330 and are subject to disclosure (~~under RCW~~
20 ~~82.32.330(3)(1)~~)).

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

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

38 (4) Except for community solar projects, the investment cost
39 recovery incentive may be paid fifteen cents per economic development
40 kilowatt-hour unless requests exceed the amount authorized for credit

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

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

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

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

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

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

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

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

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

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

1 (6) If requests for the investment cost recovery incentive exceed
2 the amount of funds available for credit to the participating light
3 and power business, the incentive payments must be reduced
4 proportionately, unless and until additional funds for credit become
5 available.

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

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

15 (9) No incentive may be paid under this section for kilowatt-
16 hours generated before July 1, 2005, or after June 30, (~~2020~~) 2016.

17 (10) Beginning July 1, 2016, program management, technical
18 review, and tracking responsibilities of the department under this
19 section are transferred to the Washington State University extension
20 energy program. At the earliest date practicable and no later than
21 June 30, 2016, the department must transfer all records necessary for
22 the administration of the remaining incentive payments due under this
23 section to the Washington State University extension energy program.

24 (11) Section 3, chapter . . ., Laws of 2016 (section 3 of this
25 act) expires immediately if the department of ecology: (a) Adopts,
26 adopts with revisions, or enforces the proposed chapter 173-442 WAC
27 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
28 emissions of greenhouse gases), published in the Washington state
29 register, WSR 16-02-101; or (b) adopts or enforces a rule that
30 establishes a statewide program to set a limit, cap, or emissions
31 standard designed to control the amount of greenhouse gas emissions
32 occurring during a period of time, including a rule establishing
33 individualized greenhouse gas emissions reduction pathways for
34 covered parties. For the purposes of this subsection, "greenhouse
35 gas" has the same meaning as defined in RCW 70.235.010. The
36 department of ecology must provide notice of the expiration date of
37 section 3, chapter . . ., Laws of 2016 (section 3 of this act) to
38 affected parties, the chief clerk of the house of representatives,
39 the secretary of the senate, the office of the code reviser, and
40 others as deemed appropriate by the department of ecology.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.16
2 RCW to read as follows:

3 (1) The legislature intends to allow participants in the
4 renewable energy investment cost recovery program under RCW 82.16.120
5 to continue to receive payments for electricity produced through June
6 2020, at the rates they anticipated when they first received notice
7 of eligibility from the department under RCW 82.16.120, unless and
8 until requests for the incentive under RCW 82.16.120, this section,
9 and section 7 of this act cumulatively exceed the amount of funds
10 available for credit under RCW 82.16.130, as amended by this act.

11 (2) A person or community solar project administrator who has,
12 before June 1, 2016, submitted a complete certification to the
13 department under RCW 82.16.120(2) must, to continue to receive the
14 investment cost recovery incentive, authorize the Washington State
15 University extension energy program to administer its certification
16 authorizing the utility serving the situs of the renewable energy
17 system to remit an investment cost recovery incentive for each
18 kilowatt-hour generated by the renewable energy system ending June
19 30, 2020.

20 (3) A person or community solar project administrator who has,
21 before June 1, 2016, submitted a complete certification to the
22 department under RCW 82.16.120(2), and has had their incentive
23 payment reduced proportionately by a light and power business
24 pursuant to RCW 82.16.120(6), may authorize the Washington State
25 University extension energy program to notify and coordinate with the
26 utility serving the situs of the renewable energy system to account
27 for and remit, with the next annual incentive payment notification,
28 payment of a one-time investment cost recovery incentive payment to
29 make whole the rates they anticipated when they first received notice
30 of eligibility from the department under RCW 82.16.120.

31 (4) The person or community solar project administrator must
32 submit the authorizations provided for in this section to the
33 Washington State University extension energy program before December
34 31, 2016, on a form adopted by the Washington State University
35 extension energy program.

36 (a) The Washington State University extension energy program must
37 notify participants that providing such authorization is a condition
38 of retaining certification to receive any payments otherwise due from
39 utilities under this section beginning with the program year ending
40 June 30, 2017.

1 (b) The Washington State University extension energy program must
2 review the data provided by the department under RCW 82.16.120(2),
3 and, if available, by light and power businesses that proportionately
4 reduce incentive payments pursuant to RCW 82.16.120(6), and any
5 additional information necessary to maintain the certifications under
6 this section through June 30, 2020.

7 (5) This section expires immediately if the department of
8 ecology: (a) Adopts, adopts with revisions, or enforces the proposed
9 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
10 WAC (reporting of emissions of greenhouse gases), published in the
11 Washington state register, WSR 16-02-101; or (b) adopts or enforces a
12 rule that establishes a statewide program to set a limit, cap, or
13 emissions standard designed to control the amount of greenhouse gas
14 emissions occurring during a period of time, including a rule
15 establishing individualized greenhouse gas emissions reduction
16 pathways for covered parties. For the purposes of this subsection,
17 "greenhouse gas" has the same meaning as defined in RCW 70.235.010.
18 The department of ecology must provide notice of the expiration date
19 of this section to affected parties, the chief clerk of the house of
20 representatives, the secretary of the senate, the office of the code
21 reviser, and others as deemed appropriate by the department of
22 ecology.

23 **Sec. 5.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to
24 read as follows:

25 (1) A light and power business shall be allowed a credit against
26 taxes due under this chapter in an amount equal to ~~((investment cost~~
27 ~~recovery))~~ incentive payments made in any fiscal year under RCW
28 82.16.120 and section 7 of this act, and any credit a utility is
29 allowed to recover costs pursuant to section 7(5) of this act.

30 (2) The credits ((shall)) must be taken in a form and manner as
31 required by the department. The credit under this section for the
32 fiscal year may not exceed ~~((one-half))~~ two percent of the
33 businesses' taxable power sales generated in calendar year 2014 and
34 due under RCW 82.16.020(1)(b) or ((one)) two hundred fifty thousand
35 dollars, whichever is greater. Incentive payments to participants in
36 a ~~((utility owned))~~ community solar project ~~((as defined in RCW~~
37 ~~82.16.110(2)(a)(ii))~~) may only account for up to twenty-five percent
38 of the total allowable credit. Incentive payments ~~((to participants~~
39 ~~in a company owned community solar project as defined in RCW~~

1 ~~82.16.110(2)(a)(iii) may only account for up to five percent of the~~
2 ~~total))~~ for electricity produced by commercial-scale systems may only
3 account for up to twenty-five percent of the allowable credit.

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

8 ~~((+2))~~ (4) For any business that has claimed credit for amounts
9 that exceed the correct amount of the incentive payable under RCW
10 82.16.120, the amount of tax against which credit was claimed for the
11 excess payments shall be immediately due and payable. The department
12 may deduct amounts due from future credits claimed by the business.

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

20 ~~((+3))~~ (b) A business is not liable for excess payments made in
21 reliance on amounts reported by the Washington State University
22 extension energy program as due and payable as provided under section
23 7(19) of this act, if such amounts are later found to be abnormal or
24 inaccurate due to no fault of the business.

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

28 (6) The right to earn tax credits under this section expires June
29 30, ~~((2020))~~ 2030. Credits may not be claimed after June 30, ~~((2021))~~
30 2031.

31 (7) Section 5, chapter . . . , Laws of 2016 (section 5 of this
32 act) expires immediately if the department of ecology: (a) Adopts,
33 adopts with revisions, or enforces the proposed chapter 173-442 WAC
34 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
35 emissions of greenhouse gases), published in the Washington state
36 register, WSR 16-02-101; or (b) adopts or enforces a rule that
37 establishes a statewide program to set a limit, cap, or emissions
38 standard designed to control the amount of greenhouse gas emissions
39 occurring during a period of time, including a rule establishing
40 individualized greenhouse gas emissions reduction pathways for

1 covered parties. For the purposes of this subsection, "greenhouse
2 gas" has the same meaning as defined in RCW 70.235.010. The
3 department of ecology must provide notice of the expiration date of
4 section 5, chapter . . ., Laws of 2016 (section 5 of this act) to
5 affected parties, the chief clerk of the house of representatives,
6 the secretary of the senate, the office of the code reviser, and
7 others as deemed appropriate by the department of ecology.

8 NEW SECTION. Sec. 6. A new section is added to chapter 82.16
9 RCW to read as follows:

10 (1) The definitions in this section apply throughout this section
11 and sections 7 and 8 of this act unless the context clearly requires
12 otherwise.

13 (a) "Certification" means the authorization issued by the
14 Washington State University extension energy program establishing a
15 person's eligibility to receive annual incentive payments from the
16 person's utility for a term of ten years.

17 (b) "Commercial-scale system" means a renewable energy system or
18 systems other than a community solar project with a combined
19 nameplate capacity greater than twelve kilowatts that meets the
20 applicable system eligibility requirements established in section 7
21 of this act.

22 (c) "Community solar project" means a solar energy system that
23 has a direct current nameplate generating capacity that is no larger
24 than five hundred kilowatts and meets the applicable eligibility
25 requirements established in sections 7 and 8 of this act.

26 (d) "Community solar program" means a program organized and
27 administered by a utility or a nonprofit organization to develop
28 community solar projects pursuant to section 8 of this act.

29 (e) "Consumer-owned utility" has the same meaning as in RCW
30 19.280.020.

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

36 (g) "Nonprofit organization" means an entity or organization that
37 is exempt from taxation under section 501(c)(3) of the internal
38 revenue code.

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

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

6 (j) "Residential-scale system" means a renewable energy system or
7 systems located at a single situs with combined nameplate capacity of
8 twelve kilowatts or less that meets the applicable system eligibility
9 requirements established in section 7 of this act.

10 (k) "Utility" means a consumer-owned utility or investor-owned
11 utility as those terms are defined in RCW 19.280.020.

12 (2) This section expires immediately if the department of
13 ecology: (a) Adopts, adopts with revisions, or enforces the proposed
14 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
15 WAC (reporting of emissions of greenhouse gases), published in the
16 Washington state register, WSR 16-02-101; or (b) adopts or enforces a
17 rule that establishes a statewide program to set a limit, cap, or
18 emissions standard designed to control the amount of greenhouse gas
19 emissions occurring during a period of time, including a rule
20 establishing individualized greenhouse gas emissions reduction
21 pathways for covered parties. For the purposes of this subsection,
22 "greenhouse gas" has the same meaning as defined in RCW 70.235.010.
23 The department of ecology must provide notice of the expiration date
24 of this section to affected parties, the chief clerk of the house of
25 representatives, the secretary of the senate, the office of the code
26 reviser, and others as deemed appropriate by the department of
27 ecology.

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

30 (1) Beginning July 1, 2016, the following persons may apply to
31 the Washington State University extension energy program to receive a
32 certification authorizing the utility serving the situs of a
33 renewable energy system in the state of Washington to remit an annual
34 production incentive for each kilowatt-hour of alternating current
35 electricity generated by the renewable energy system:

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

38 (b) The nonprofit organization or utility that administers a
39 community solar project meeting the eligibility requirements outlined

1 in section 8 of this act and applies for certification on behalf of
2 each of the project participants.

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

8 (3)(a) No new certification may be issued under this section for
9 a renewable energy system that was certified under RCW 82.16.120 and
10 submitted a request for or received an annual incentive payment, or
11 for a renewable energy system served by a utility that has elected
12 not to participate in the incentive program, as provided in
13 subsection (4) of this section.

14 (b) No new certification may be issued under this section for an
15 additional system, either residential-scale or commercial-scale, if a
16 residential-scale or commercial-scale system at the same situs or at
17 the same billing meter has already been certified under this section.
18 Instead, an applicant may seek recertification of an expanded system,
19 as provided in (c) of this subsection.

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

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

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

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

38 (c) Such notice of termination of participation is effective
39 after fifteen days, at which point the Washington State University
40 extension energy program may not accept new applications for

1 certification of renewable energy systems that would be served by
2 that utility.

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

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

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

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

27 (b) The Washington State University extension energy program must
28 establish a reporting and fee-for-service system to accept
29 electricity production data from the utility or the customer, with
30 the reporting entity selected at the utility's option as described in
31 subsection (18) of this section. The fee-for-service must allow for
32 electronic reporting or reporting by mail, may be specific to
33 individual utilities, and must recover only the program's costs of
34 obtaining the electricity production data and incorporating it into
35 an electronic format. The amount due for the fee-for-service shall be
36 provided to the utility by the Washington State University extension
37 energy program with the report provided to the utility pursuant to
38 subsection (19)(a) of this section and may be deducted by the utility
39 from the credit available to the utility pursuant to RCW
40 82.16.130(1).

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

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

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

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

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

11 (a) An affidavit that the applicant has not previously received a
12 notice of eligibility from the department under RCW 82.16.120
13 entitling the applicant to receive annual incentive payments for
14 electricity generated by the renewable energy system at the same
15 meter location;

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

18 (c) Any other information the Washington State University
19 extension energy program deems necessary in determining eligibility
20 and incentive levels, administering the program, tracking progress
21 toward achieving the limits on program participation established in
22 RCW 82.16.130, or facilitating the review of the performance of the
23 tax preferences by the joint legislative audit and review committee,
24 as described in section 2 of this act; and

25 (d)(i) Except as provided in (d)(ii) of this subsection (7), the
26 date that the renewable energy system received its final electrical
27 inspection from the applicable local jurisdiction, as well as a copy
28 of the permit or, if the permit is available online, the permit
29 number.

30 (ii) The Washington State University extension energy program may
31 waive the requirement in (d)(i) of this subsection (7), accepting an
32 application and granting provisional certification prior to proof of
33 final electrical inspection. Provisional certification expires one
34 hundred eighty days after issuance, unless the applicant submits
35 proof of the final electrical inspection from the applicable local
36 jurisdiction or the Washington State University extension energy
37 program extends the certification, for a term or terms of thirty
38 days, due to extenuating circumstances.

39 (8) No incentive payments may be authorized or accrued until the
40 final electrical inspection and executed interconnection agreement

1 are submitted to the Washington State University extension energy
2 program.

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

12 (10) Certification is valid for ten years and may not be
13 retroactively changed except to correct later discovered errors that
14 were made during the original application or certification process.

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

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

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

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

33 Fiscal year	Base rate -	Base rate -	Base rate -	Made in
34 of system	residential-scale	commercial-scale	community	Washington
35 certification			solar	bonus
36 2017	\$0.13	\$0.08	\$0.13	\$0.05
37 2018	\$0.11	\$0.06	\$0.10	\$0.05
38 2019	\$0.09	\$0.04	\$0.07	\$0.04

2 Certification of a renewable energy system entitles the recipient
3 to receive incentive payments for electricity generated for a period
4 of ten years from the date the system commences operation or the date
5 the system is certified, whichever date is later. For purposes of
6 this section, the Washington State University extension energy
7 program must define when a renewable energy system commences
8 operation and provide notice of such date to the recipient and the
9 utility serving the situs of the system.

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

12 (a) For community solar projects in any fiscal year that twenty-
13 five percent of available funds for credit that year under RCW
14 82.16.130 have been allocated to community solar projects;

15 (b) For any additional renewable energy system served by a
16 utility, if certification is likely to result in incentive payments
17 by that utility exceeding the utility's available funds for credit
18 under RCW 82.16.130, taking into consideration funds allocated for
19 participants under RCW 82.16.120 and section 4 of this act; and

20 (c) When the participating utility serving the situs of the
21 system has exceeded its available funds for credit under RCW
22 82.16.130 and is not required to make incentive payments.

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

32 (15) In order to begin to receive annual incentive payments, a
33 person who has been issued a certification for the incentive as
34 provided in subsection (9) of this section must submit the
35 certification to the utility serving the situs of the system and must
36 obtain an executed interconnection agreement with the utility.

37 (16) The Washington State University extension energy program
38 must establish a list of equipment that is eligible for the bonus
39 rates described in subsection (12) of this section. The Washington

1 State University extension energy program shall, in consultation with
2 the department of commerce, develop technical specifications and
3 guidelines to ensure consistent and predictable determination of
4 eligibility. A solar module is made in Washington for purposes of
5 receiving the bonus rate only if the lamination of the module takes
6 place in Washington. A wind turbine is made in Washington only if it
7 is powered by a turbine or built with a tower manufactured in
8 Washington.

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

19 (18) Annually, the utility, or the customer at the utility's
20 option, must report to the Washington State University extension
21 energy program, by mail or electronically, the amount of gross
22 kilowatt-hours generated by each renewable energy system since the
23 prior annual report.

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

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

1 (20)(a) The utility must issue the incentive payment within
2 thirty days of receipt of the information required under subsection
3 (19)(a) of this section from the Washington State University
4 extension energy program. The utility must resume the incentive
5 payments withheld under subsection (19)(b) of this section within
6 thirty days of receiving notice from the Washington State University
7 extension energy program that the claim has been demonstrated
8 accurate and valid and payment should be resumed.

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

13 (21) Beginning January 1, 2017, the Washington State University
14 extension energy program must post on its web site and update at
15 least monthly a report, by utility, of:

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

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

22 (22) Persons receiving incentive payments under this section must
23 keep and preserve, for a period of five years for the duration of the
24 consumer contract, suitable records as may be necessary to determine
25 the amount of incentive payments applied for and received. The
26 Washington State University extension energy program may direct a
27 utility to cease issuing incentive payments if the records are not
28 made available for examination upon request. A utility receiving such
29 a directive is not liable to the applicant for any incentive payments
30 or other damages for ceasing payments pursuant to the directive.

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

38 (24) All lists, technical specifications, determinations, and
39 guidelines developed under this section must be made publicly

1 available online by the Washington State University extension energy
2 program.

3 (25) No certification may be issued under this section after June
4 30, 2020.

5 (26) The Washington State University extension energy program may
6 collect a one-time fee for applications under this section of one
7 hundred dollars per applicant. The Washington State University
8 extension energy program must deposit all revenue generated by this
9 fee into the state general fund. The Washington State University
10 extension energy program must administer and budget for the program
11 established in RCW 82.16.120, this section, and sections 4 and 8 of
12 this act in a manner that ensures its administrative costs through
13 June 30, 2021, are completely met by the revenues from this fee. If
14 the Washington State University extension energy program determines
15 that the fee authorized in this subsection is insufficient to cover
16 the administrative costs through June 30, 2021, the Washington State
17 University extension energy program must report to the legislature on
18 costs incurred and fees collected and demonstrate why a different fee
19 amount or funding mechanism should be authorized.

20 (27) The Washington State University extension energy program
21 may, through a public process, develop any program requirements and
22 policies necessary for the administration of this section, RCW
23 82.16.120, and sections 2, 6, and 8 of this act. The department is
24 authorized, in consultation with the Washington State University
25 extension energy program, to adopt any rules necessary for
26 administration of the program.

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

31 (29) This section expires immediately if the department of
32 ecology: (a) Adopts, adopts with revisions, or enforces the proposed
33 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
34 WAC (reporting of emissions of greenhouse gases), published in the
35 Washington state register, WSR 16-02-101; or (b) adopts or enforces a
36 rule that establishes a statewide program to set a limit, cap, or
37 emissions standard designed to control the amount of greenhouse gas
38 emissions occurring during a period of time, including a rule
39 establishing individualized greenhouse gas emissions reduction
40 pathways for covered parties. For the purposes of this subsection,

1 "greenhouse gas" has the same meaning as defined in RCW 70.235.010.
2 The department of ecology must provide notice of the expiration date
3 of this section to affected parties, the chief clerk of the house of
4 representatives, the secretary of the senate, the office of the code
5 reviser, and others as deemed appropriate by the department of
6 ecology.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.16
8 RCW to read as follows:

9 (1) The purpose of the community solar project is to facilitate
10 broad, equitable community investment in and access to solar power.
11 Beginning July 1, 2016, a utility or nonprofit organization may
12 organize and administer a community solar project as provided in this
13 section.

14 (2) A community solar project must have a direct current
15 nameplate capacity that is no more than five hundred kilowatts and
16 must have at least ten participants. Except for community solar
17 projects authorized under subsection (5) of this section, each
18 participant must be a customer of the utility providing service at
19 the situs of the community solar project.

20 (3) A utility or nonprofit administrator of a community solar
21 project must administer the project in a transparent manner that
22 allows for fair and nondiscriminatory opportunity for participation
23 by utility customers.

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

30 (5) A public utility district that is engaged in distributing
31 electricity to more than one retail electric customer in the state
32 and a joint operating agency organized under chapter 43.52 RCW on or
33 before January 1, 2016, may enter into an agreement with each other
34 to construct and own a community solar project that is located on
35 property owned by a joint operating agency or on property that
36 receives electric service from a participating public utility
37 district. Each participant of a community solar project under this
38 subsection must be a customer of at least one of the public utility

1 districts that is a party to the agreement with a joint operating
2 agency to construct and own a community solar project.

3 (6) This section expires immediately if the department of
4 ecology: (a) Adopts, adopts with revisions, or enforces the proposed
5 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
6 WAC (reporting of emissions of greenhouse gases), published in the
7 Washington state register, WSR 16-02-101; or (b) adopts or enforces a
8 rule that establishes a statewide program to set a limit, cap, or
9 emissions standard designed to control the amount of greenhouse gas
10 emissions occurring during a period of time, including a rule
11 establishing individualized greenhouse gas emissions reduction
12 pathways for covered parties. For the purposes of this subsection,
13 "greenhouse gas" has the same meaning as defined in RCW 70.235.010.
14 The department of ecology must provide notice of the expiration date
15 of this section to affected parties, the chief clerk of the house of
16 representatives, the secretary of the senate, the office of the code
17 reviser, and others as deemed appropriate by the department of
18 ecology.

19 NEW SECTION. **Sec. 9.** (1) **Findings.** The legislature finds that a
20 convenient, safe, and environmentally sound system for the recycling
21 of solar modules, minimization of hazardous waste, and recovery of
22 commercially valuable materials must be established. The legislature
23 further finds that the responsibility for this system must be shared
24 among all stakeholders, with manufacturers financing the takeback and
25 recycling system.

26 (2) **Definitions.** For purposes of this section the following
27 definitions apply:

28 (a) "Department" means the department of ecology.

29 (b) "Manufacturer" means any person in business or no longer in
30 business but having a successor in interest who, irrespective of the
31 selling technique used, including by means of distance or remote
32 sale:

33 (i) Manufactures or has manufactured a solar module under its own
34 brand names for sale in or into this state;

35 (ii) Assembles or has assembled a solar module that uses parts
36 manufactured by others for sale in or into this state under the
37 assembler's brand names;

38 (iii) Resells or has resold in or into this state under its own
39 brand names a solar module produced by other suppliers, including

1 retail establishments that sell solar modules under their own brand
2 names;

3 (iv) Manufactures or has manufactured a cobranded solar module
4 product for sale in or into this state that carries the name of both
5 the manufacturer and a retailer;

6 (v) Imports or has imported a solar module into the United States
7 that is sold in or into this state. However, if the imported solar
8 module is manufactured by any person with a presence in the United
9 States meeting the criteria of manufacturer under (a) through (d) of
10 this subsection, that person is the manufacturer;

11 (vi) Sells at retail a solar module acquired from an importer
12 that is the manufacturer and elects to register as the manufacturer
13 for those products; or

14 (vii) Elects to assume the responsibility and register in lieu of
15 a manufacturer as defined under (b)(i) through (vi) of this
16 subsection.

17 (c) "Rare earth element" means lanthanum, cerium, praseodymium,
18 neodymium, promethium, samarium, europium, gadolinium, terbium,
19 dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium,
20 or scandium.

21 (d) "Reuse" means any operation by which a solar module or a
22 component of a solar module changes ownership and is used for the
23 same purpose for which it was originally purchased.

24 (e) "Solar module" means the smallest nondivisible,
25 environmentally protected, essentially planar assembly of solar
26 cells, or other solar collector technology and ancillary parts
27 intended to generate direct current power under sunlight, including
28 but not limited to interconnections, terminals, and protective
29 devices such as diodes, that is capable of interconnecting with the
30 electric grid.

31 (f) "Stewardship plan" means the plan developed by a manufacturer
32 or its designated stewardship organization for a self-directed
33 stewardship program.

34 (g) "Stewardship program" means the activities conducted by a
35 manufacturer or a stewardship organization to fulfill the
36 requirements of this chapter and implement the activities described
37 in its stewardship plan.

38 (3) **Program guidance, review, and approval.** The department must
39 develop guidance for a solar module stewardship and takeback program
40 to guide manufacturers in preparing and implementing a self-directed

1 program to ensure the convenient, safe, and environmentally sound
2 takeback and recycling of solar modules and their components and
3 materials. By January 1, 2017, the department must establish a
4 process to develop guidance for solar module stewardship plans by
5 working with manufacturers, stewardship organizations, and other
6 stakeholders on the content, review, and approval of stewardship
7 plans. The department's process must be fully implemented and
8 stewardship plan guidance completed by January 1, 2018.

9 (4) **Stewardship organization as agent of manufacturer.** A
10 stewardship organization may be designated to act as an agent on
11 behalf of a manufacturer or manufacturers in operating and
12 implementing the stewardship program required under this chapter. Any
13 stewardship organization that has obtained such designation must
14 provide to the department a list of the manufacturers and brand names
15 that the stewardship organization represents within sixty days of its
16 designation by a manufacturer as its agent, or within sixty days of
17 removal of such designation.

18 (5) **Stewardship plans.** Each manufacturer must prepare and submit
19 a stewardship plan to the department by the later of January 1, 2019,
20 or within thirty days of its first sale of a solar module in or into
21 the state.

22 (a) A stewardship plan must, at a minimum:

23 (i) Include an adequate funding mechanism to finance the costs of
24 collection, management, and recycling of solar modules and residuals
25 sold in or into the state by the manufacturer with a mechanism that
26 ensures that solar modules can be delivered to takeback locations
27 without cost to the last owner or holder;

28 (ii) Accept all solar modules sold in or into the state after
29 July 1, 2016;

30 (iii) Describe how the program will minimize the release of
31 hazardous substances into the environment and maximize the recovery
32 of other components, including rare earth elements and commercially
33 valuable materials;

34 (iv) Provide for takeback of solar modules at locations that are
35 within the region of the state in which the solar modules were used
36 and are as convenient as reasonably practicable, and if no such
37 location within the region of the state exists, include an
38 explanation for the lack of such location;

39 (v) Identify how relevant stakeholders, including consumers,
40 installers, building demolition firms, and recycling and treatment

1 facilities, will receive information required in order for them to
2 properly dismantle, transport, and treat the end-of-life solar
3 modules in a manner consistent with the objectives described in
4 (a)(iii) of this subsection;

5 (vi) Establish performance goals, including a goal for the rate
6 of combined reuse and recycling of collected solar modules as a
7 percentage of the total weight of solar modules collected, which rate
8 must be no less than eighty-five percent.

9 (b) A manufacturer must implement the stewardship plan.

10 (c) A manufacturer may periodically amend its stewardship plan.
11 The department must approve the amendment if it meets the
12 requirements for plan approval outlined in the department's guidance.
13 When submitting proposed amendments, the manufacturer must include an
14 explanation of why such amendments are necessary.

15 (6) **Plan approval.** The department shall approve a stewardship
16 plan if it determines the plan addresses each element outlined in the
17 department's guidance.

18 (7) **Annual report.** (a) Beginning April 1, 2021, and by April 1st
19 in each subsequent year, a manufacturer, or its designated
20 stewardship organization, must provide to the department a report for
21 the previous calendar year that documents implementation of the plan
22 and assesses achievement of the performance goals established in
23 subsection (5)(a)(vi) of this section.

24 (b) The report may include any recommendations to the department
25 or the legislature on modifications to the program that would enhance
26 the effectiveness of the program, including management of program
27 costs and mitigation of environmental impacts of solar modules.

28 (c) The manufacturer or stewardship organization must post this
29 report on a publicly accessible web site.

30 (8) **Enforcement.** Beginning January 1, 2020, no manufacturer may
31 sell or offer for sale a solar module in or into the state unless the
32 manufacturer has submitted to the department a stewardship plan and
33 received plan approval. The department shall send a written warning
34 to a manufacturer that is not participating in a plan. The written
35 warning must inform the manufacturer that it must submit a plan or
36 participate in a plan within thirty days of the notice. The
37 department may assess a penalty of up to ten thousand dollars for
38 each sale of a solar module in or into the state that occurs after
39 the initial written warning. A manufacturer may appeal a penalty

1 issued under this section to the superior court of Thurston county
2 within one hundred eighty days of receipt of the notice.

3 (9) **Fee.** The department may collect a flat fee from participating
4 manufacturers to recover costs associated with the plan guidance,
5 review, and approval process described in subsection (3) of this
6 section. Other administrative costs incurred by the department for
7 program implementation activities, including stewardship plan review
8 and approval, enforcement, and any rule making, may be recovered by
9 charging every manufacturer an annual fee calculated by dividing
10 department administrative costs by the manufacturer's pro rata share
11 of the Washington state solar module sales in the most recent
12 preceding calendar year, based on best available information. The
13 sole purpose of assessing the fees authorized in this subsection is
14 to predictably and adequately fund the department's costs of
15 administering the solar module recycling program.

16 (10) **Account.** The solar module recycling account is created in
17 the custody of the state treasurer. All fees collected from
18 manufacturers under this chapter must be deposited in the account.
19 Expenditures from the account may be used only for administering this
20 chapter. Only the director of the department or the director's
21 designee may authorize expenditures from the account. The account is
22 subject to the allotment procedures under chapter 43.88 RCW, but an
23 appropriation is not required for expenditures. Funds in the account
24 may not be diverted for any purpose or activity other than those
25 specified in this section.

26 (11) **Rule making.** The department may adopt rules as necessary for
27 the purpose of implementing, administering, and enforcing this
28 chapter.

29 (12) **National program.** In lieu of preparing a stewardship plan
30 and as provided by subsection (5) of this section, a manufacturer may
31 participate in a national program for the convenient, safe, and
32 environmentally sound takeback and recycling of solar modules and
33 their components and materials. The department must determine that
34 the manufacturer's participation in the national program is likely to
35 achieve environmental outcomes in the state of Washington
36 substantially equivalent to those achieved by a departmentally
37 approved stewardship plan and is likely to be more cost-effective for
38 the manufacturer than participation in a departmentally approved
39 stewardship plan. The department may determine substantial
40 equivalence if it determines that the national program adequately

1 addresses each of the elements of a stewardship plan outlined in
2 subsection (5)(a) of this section and includes an enforcement
3 mechanism reasonably calculated to ensure a manufacturer's compliance
4 with the national program. Upon issuing a determination of
5 substantial equivalence, the department must notify affected
6 stakeholders including the manufacturer. If the national program is
7 discontinued or the department determines the national program no
8 longer provides equivalent environmental outcomes in Washington, the
9 department must notify the manufacturer. The manufacturer must
10 provide a stewardship plan as described in subsection (5)(a) of this
11 section to the department for approval within thirty days of
12 notification.

13 **Sec. 10.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each
14 amended to read as follows:

15 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
16 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
17 directly in generating electricity using fuel cells, wind, sun,
18 biomass energy, tidal or wave energy, geothermal resources, anaerobic
19 digestion, technology that converts otherwise lost energy from
20 exhaust, or landfill gas as the principal source of power, or to
21 sales of or charges made for labor and services rendered in respect
22 to installing such machinery and equipment, are eligible for an
23 exemption as provided in this section, but only if the purchaser
24 develops with such machinery, equipment, and labor a facility capable
25 of generating not less than one thousand watts of electricity.

26 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
27 levied by RCW 82.08.020 does not apply to the sale of machinery and
28 equipment described in (a) of this subsection that are used directly
29 in generating electricity or to sales of or charges made for labor
30 and services rendered in respect to installing such machinery and
31 equipment.

32 (c) Beginning on July 1, 2011, through January 1, 2020, the
33 amount of the exemption under this subsection (1) is equal to
34 seventy-five percent of the state and local sales tax paid. The
35 purchaser is eligible for an exemption under this subsection (1)(c)
36 in the form of a remittance.

37 (2) For purposes of this section and RCW 82.12.962, the following
38 definitions apply:

1 (a) "Biomass energy" includes: (i) By-products of pulping and
2 wood manufacturing process; (ii) animal waste; (iii) solid organic
3 fuels from wood; (iv) forest or field residues; (v) wooden demolition
4 or construction debris; (vi) food waste; (vii) liquors derived from
5 algae and other sources; (viii) dedicated energy crops; (ix)
6 biosolids; and (x) yard waste. "Biomass energy" does not include wood
7 pieces that have been treated with chemical preservatives such as
8 creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old
9 growth forests; or municipal solid waste.

10 (b) "Fuel cell" means an electrochemical reaction that generates
11 electricity by combining atoms of hydrogen and oxygen in the presence
12 of a catalyst.

13 (c) "Landfill gas" means biomass fuel, of the type qualified for
14 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal
15 internal revenue code, collected from a "landfill" as defined under
16 RCW 70.95.030.

17 (d)(i) "Machinery and equipment" means fixtures, devices, and
18 support facilities that are integral and necessary to the generation
19 of electricity using fuel cells, wind, sun, biomass energy, tidal or
20 wave energy, geothermal resources, anaerobic digestion, technology
21 that converts otherwise lost energy from exhaust, or landfill gas as
22 the principal source of power.

23 (ii) "Machinery and equipment" does not include: (A) Hand-powered
24 tools; (B) property with a useful life of less than one year; (C)
25 repair parts required to restore machinery and equipment to normal
26 working order; (D) replacement parts that do not increase
27 productivity, improve efficiency, or extend the useful life of
28 machinery and equipment; (E) buildings; or (F) building fixtures that
29 are not integral and necessary to the generation of electricity that
30 are permanently affixed to and become a physical part of a building.

31 (3)(a) Machinery and equipment is "used directly" in generating
32 electricity by wind energy, solar energy, biomass energy, tidal or
33 wave energy, geothermal resources, anaerobic digestion, technology
34 that converts otherwise lost energy from exhaust, or landfill gas
35 power if it provides any part of the process that captures the energy
36 of the wind, sun, biomass energy, tidal or wave energy, geothermal
37 resources, anaerobic digestion, technology that converts otherwise
38 lost energy from exhaust, or landfill gas, converts that energy to
39 electricity, and stores, transforms, or transmits that electricity

1 for entry into or operation in parallel with electric transmission
2 and distribution systems.

3 (b) Machinery and equipment is "used directly" in generating
4 electricity by fuel cells if it provides any part of the process that
5 captures the energy of the fuel, converts that energy to electricity,
6 and stores, transforms, or transmits that electricity for entry into
7 or operation in parallel with electric transmission and distribution
8 systems.

9 (4)(a) A purchaser claiming an exemption in the form of a
10 remittance under subsection (1)(c) of this section must pay the tax
11 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
12 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
13 may then apply to the department for remittance in a form and manner
14 prescribed by the department. A purchaser may not apply for a
15 remittance under this section more frequently than once per quarter.
16 The purchaser must specify the amount of exempted tax claimed and the
17 qualifying purchases for which the exemption is claimed. The
18 purchaser must retain, in adequate detail, records to enable the
19 department to determine whether the purchaser is entitled to an
20 exemption under this section, including: Invoices; proof of tax paid;
21 and documents describing the machinery and equipment.

22 (b) The department must determine eligibility under this section
23 based on the information provided by the purchaser, which is subject
24 to audit verification by the department. The department must on a
25 quarterly basis remit exempted amounts to qualifying purchasers who
26 submitted applications during the previous quarter.

27 (5) The exemption provided by this section expires June 30, 2016,
28 as it applies to: (a) Machinery and equipment that is used directly
29 in the generation of electricity using solar energy and capable of
30 generating no more than five hundred kilowatts of electricity; or (b)
31 sales of or charges made for labor and services rendered in respect
32 to installing such machinery and equipment.

33 (6) This section expires January 1, 2020.

34 (7) Section 10, chapter . . ., Laws of 2016 (section 10 of this
35 act) expires immediately if the department of ecology: (a) Adopts,
36 adopts with revisions, or enforces the proposed chapter 173-442 WAC
37 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
38 emissions of greenhouse gases), published in the Washington state
39 register, WSR 16-02-101; or (b) adopts or enforces a rule that
40 establishes a statewide program to set a limit, cap, or emissions

1 standard designed to control the amount of greenhouse gas emissions
2 occurring during a period of time, including a rule establishing
3 individualized greenhouse gas emissions reduction pathways for
4 covered parties. For the purposes of this subsection, "greenhouse
5 gas" has the same meaning as defined in RCW 70.235.010. The
6 department of ecology must provide notice of the expiration date of
7 section 10, chapter . . ., Laws of 2016 (section 10 of this act) to
8 affected parties, the chief clerk of the house of representatives,
9 the secretary of the senate, the office of the code reviser, and
10 others as deemed appropriate by the department of ecology.

11 **Sec. 11.** RCW 82.08.963 and 2013 2nd sp.s. c 13 s 1602 are each
12 amended to read as follows:

13 (1) The tax levied by RCW 82.08.020 does not apply to sales of
14 machinery and equipment used directly in generating electricity or
15 producing thermal heat using solar energy, or to sales of or charges
16 made for labor and services rendered in respect to installing such
17 machinery and equipment, but only if the purchaser develops with such
18 machinery, equipment, and labor a facility capable of generating not
19 more than ten kilowatts of electricity or producing not more than
20 three million British thermal units per day and provides the seller
21 with an exemption certificate in a form and manner prescribed by the
22 department. The seller must retain a copy of the certificate for the
23 seller's files. For sellers who electronically file their taxes, the
24 department must provide a separate tax reporting line for exemption
25 amounts claimed by a buyer under this section.

26 (2) For purposes of this section and RCW 82.12.963:

27 (a) "Machinery and equipment" means industrial fixtures, devices,
28 and support facilities that are integral and necessary to the
29 generation of electricity or production and use of thermal heat using
30 solar energy;

31 (b) "Machinery and equipment" does not include: (i) Hand-powered
32 tools; (ii) property with a useful life of less than one year; (iii)
33 repair parts required to restore machinery and equipment to normal
34 working order; (iv) replacement parts that do not increase
35 productivity, improve efficiency, or extend the useful life of
36 machinery and equipment; (v) buildings; or (vi) building fixtures
37 that are not integral and necessary to the generation of electricity
38 that are permanently affixed to and become a physical part of a
39 building;

1 (c) Machinery and equipment is "used directly" in generating
2 electricity with solar energy if it provides any part of the process
3 that captures the energy of the sun, converts that energy to
4 electricity, and stores, transforms, or transmits that electricity
5 for entry into or operation in parallel with electric transmission
6 and distribution systems; and

7 (d) Machinery and equipment is "used directly" in producing
8 thermal heat with solar energy if it uses a solar collector or a
9 solar hot water system that (i) meets the certification standards for
10 solar collectors and solar hot water systems developed by the solar
11 rating and certification corporation; or (ii) is determined by the
12 Washington State University extension whether a solar collector or
13 solar hot water system is an equivalent collector or system.

14 (3) The exemption provided by this section for the sales of
15 machinery and equipment that is used directly in the generation of
16 electricity using solar energy, or for sales of or charges made for
17 labor or services rendered in respect to installing such machinery
18 and equipment, expires June 30, 2016.

19 (4) This section expires June 30, 2018.

20 (5) Section 11, chapter . . ., Laws of 2016 (section 11 of this
21 act) expires immediately if the department of ecology: (a) Adopts,
22 adopts with revisions, or enforces the proposed chapter 173-442 WAC
23 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
24 emissions of greenhouse gases), published in the Washington state
25 register, WSR 16-02-101; or (b) adopts or enforces a rule that
26 establishes a statewide program to set a limit, cap, or emissions
27 standard designed to control the amount of greenhouse gas emissions
28 occurring during a period of time, including a rule establishing
29 individualized greenhouse gas emissions reduction pathways for
30 covered parties. For the purposes of this subsection, "greenhouse
31 gas" has the same meaning as defined in RCW 70.235.010. The
32 department of ecology must provide notice of the expiration date of
33 section 11, chapter . . ., Laws of 2016 (section 11 of this act) to
34 affected parties, the chief clerk of the house of representatives,
35 the secretary of the senate, the office of the code reviser, and
36 others as deemed appropriate by the department of ecology.

37 **Sec. 12.** RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each
38 amended to read as follows:

1 (1)(a) Except as provided in RCW 82.12.963, consumers who have
2 paid the tax imposed by RCW 82.12.020 on machinery and equipment used
3 directly in generating electricity using fuel cells, wind, sun,
4 biomass energy, tidal or wave energy, geothermal resources, anaerobic
5 digestion, technology that converts otherwise lost energy from
6 exhaust, or landfill gas as the principal source of power, or to
7 sales of or charges made for labor and services rendered in respect
8 to installing such machinery and equipment, are eligible for an
9 exemption as provided in this section, but only if the purchaser
10 develops with such machinery, equipment, and labor a facility capable
11 of generating not less than one thousand watts of electricity.

12 (b) Beginning on July 1, 2009, through June 30, 2011, the
13 provisions of this chapter do not apply in respect to the use of
14 machinery and equipment described in (a) of this subsection that are
15 used directly in generating electricity or to sales of or charges
16 made for labor and services rendered in respect to installing such
17 machinery and equipment.

18 (c) Beginning on July 1, 2011, through January 1, 2020, the
19 amount of the exemption under this subsection (1) is equal to
20 seventy-five percent of the state and local sales tax paid. The
21 consumer is eligible for an exemption under this subsection (1)(c) in
22 the form of a remittance.

23 (2)(a) A person claiming an exemption in the form of a remittance
24 under subsection (1)(c) of this section must pay the tax imposed by
25 RCW 82.12.020 and all applicable local use taxes imposed under the
26 authority of chapters 82.14 and 81.104 RCW. The consumer may then
27 apply to the department for remittance in a form and manner
28 prescribed by the department. A consumer may not apply for a
29 remittance under this section more frequently than once per quarter.
30 The consumer must specify the amount of exempted tax claimed and the
31 qualifying purchases or acquisitions for which the exemption is
32 claimed. The consumer must retain, in adequate detail, records to
33 enable the department to determine whether the consumer is entitled
34 to an exemption under this section, including: Invoices; proof of tax
35 paid; and documents describing the machinery and equipment.

36 (b) The department must determine eligibility under this section
37 based on the information provided by the consumer, which is subject
38 to audit verification by the department. The department must on a
39 quarterly basis remit exempted amounts to qualifying consumers who
40 submitted applications during the previous quarter.

1 (3) Purchases exempt under RCW 82.08.962 are also exempt from the
2 tax imposed under RCW 82.12.020.

3 (4) The definitions in RCW 82.08.962 apply to this section.

4 (5) The exemption provided in subsection (1) of this section does
5 not apply:

6 (a) To machinery and equipment used directly in the generation of
7 electricity using solar energy and capable of generating no more than
8 five hundred kilowatts of electricity, or to sales of or charges made
9 for labor and services rendered in respect to installing such
10 machinery and equipment, when first use within this state of such
11 machinery and equipment, or labor and services, occurs after June 30,
12 2016; and

13 (b) To any other machinery and equipment described in subsection
14 (1)(a) of this section, or to sales of or charges made for labor and
15 services rendered in respect to installing such machinery or
16 equipment, when first use within this state of such machinery and
17 equipment, or labor and services, occurs after December 31, 2019.

18 (6) This section expires January 1, 2020.

19 (7) Section 12, chapter . . ., Laws of 2016 (section 12 of this
20 act) expires immediately if the department of ecology: (a) Adopts,
21 adopts with revisions, or enforces the proposed chapter 173-442 WAC
22 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
23 emissions of greenhouse gases), published in the Washington state
24 register, WSR 16-02-101; or (b) adopts or enforces a rule that
25 establishes a statewide program to set a limit, cap, or emissions
26 standard designed to control the amount of greenhouse gas emissions
27 occurring during a period of time, including a rule establishing
28 individualized greenhouse gas emissions reduction pathways for
29 covered parties. For the purposes of this subsection, "greenhouse
30 gas" has the same meaning as defined in RCW 70.235.010. The
31 department of ecology must provide notice of the expiration date of
32 section 12, chapter . . ., Laws of 2016 (section 12 of this act) to
33 affected parties, the chief clerk of the house of representatives,
34 the secretary of the senate, the office of the code reviser, and
35 others as deemed appropriate by the department of ecology.

36 **Sec. 13.** RCW 82.12.963 and 2013 2nd sp.s. c 13 s 1603 are each
37 amended to read as follows:

38 (1) The provisions of this chapter do not apply with respect to
39 machinery and equipment used directly in generating not more than ten

1 kilowatts of electricity or producing not more than three million
2 British thermal units per day using solar energy, or to the use of
3 labor and services rendered in respect to installing such machinery
4 and equipment.

5 (2) The definitions in RCW 82.08.963 apply to this section.

6 (3) The exemption provided by this section does not apply:

7 (a) To the use of machinery and equipment used directly in the
8 generation of electricity using solar energy, or to the use of labor
9 and services rendered in respect to installing such machinery and
10 equipment, when first use within this state of such machinery and
11 equipment, or labor and services, occurs after June 30, 2016; and

12 (b) To the use of any machinery or equipment used directly in
13 producing thermal heat using solar energy, or to the use of labor and
14 services rendered in respect to installing such machinery or
15 equipment, when first use within this state of such machinery and
16 equipment, or labor and services, occurs after June 30, 2018.

17 (4) This section expires June 30, 2018.

18 (5) Section 13, chapter . . ., Laws of 2016 (section 13 of this
19 act) expires immediately if the department of ecology: (a) Adopts,
20 adopts with revisions, or enforces the proposed chapter 173-442 WAC
21 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
22 emissions of greenhouse gases), published in the Washington state
23 register, WSR 16-02-101; or (b) adopts or enforces a rule that
24 establishes a statewide program to set a limit, cap, or emissions
25 standard designed to control the amount of greenhouse gas emissions
26 occurring during a period of time, including a rule establishing
27 individualized greenhouse gas emissions reduction pathways for
28 covered parties. For the purposes of this subsection, "greenhouse
29 gas" has the same meaning as defined in RCW 70.235.010. The
30 department of ecology must provide notice of the expiration date of
31 section 13, chapter . . ., Laws of 2016 (section 13 of this act) to
32 affected parties, the chief clerk of the house of representatives,
33 the secretary of the senate, the office of the code reviser, and
34 others as deemed appropriate by the department of ecology.

35 NEW SECTION. Sec. 14. A new section is added to chapter 82.16
36 RCW to read as follows:

37 (1) Any person who sells a solar module to a customer-owner, or
38 who receives compensation from a customer-owner in exchange for
39 installing a solar module for use in a residential-scale system or

1 commercial-scale system in Washington must provide to the customer-
2 owner current information regarding the tax incentives available to
3 the customer-owner under Washington law, including the scheduled
4 expiration date of any tax incentives and the maximum period of time
5 during which the customer-owner may benefit from any tax incentives,
6 based on the law as it existed on the date of sale or installation of
7 the solar module.

8 (2) The definitions in section 6 of this act apply to this
9 section.

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

12 (4) The legislature finds that the practices covered by this
13 section are matters vitally affecting the public interest for the
14 purpose of applying the consumer protection act, chapter 19.86 RCW. A
15 violation of this section is not reasonable in relation to the
16 development and preservation of business and is an unfair or
17 deceptive act or practice in the conduct of trade or commerce and an
18 unfair method of competition. Except for entities subject to the
19 jurisdiction of the utilities and transportation commission,
20 violations of this section may be enforced by the attorney general
21 under the consumer protection act, chapter 19.86 RCW.

22 (5) This section expires immediately if the department of
23 ecology: (a) Adopts, adopts with revisions, or enforces the proposed
24 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
25 WAC (reporting of emissions of greenhouse gases), published in the
26 Washington state register, WSR 16-02-101; or (b) adopts or enforces a
27 rule that establishes a statewide program to set a limit, cap, or
28 emissions standard designed to control the amount of greenhouse gas
29 emissions occurring during a period of time, including a rule
30 establishing individualized greenhouse gas emissions reduction
31 pathways for covered parties. For the purposes of this subsection,
32 "greenhouse gas" has the same meaning as defined in RCW 70.235.010.
33 The department of ecology must provide notice of the expiration date
34 of this section to affected parties, the chief clerk of the house of
35 representatives, the secretary of the senate, the office of the code
36 reviser, and others as deemed appropriate by the department of
37 ecology.

38 NEW SECTION. **Sec. 15.** Section 9 of this act constitutes a new
39 chapter in Title 70 RCW.

1 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately."

E2SHB 2346 - S COMM AMD

By Committee on Energy, Environment & Telecommunications

5 On page 1, line 4 of the title, after "recycling;" strike the
6 remainder of the title and insert "amending RCW 82.16.120, 82.16.130,
7 82.08.962, 82.08.963, 82.12.962, and 82.12.963; adding new sections
8 to chapter 82.16 RCW; adding a new chapter to Title 70 RCW; creating
9 a new section; providing contingent expiration dates; and declaring
10 an emergency."

--- END ---