
SENATE BILL 5499

State of Washington

65th Legislature

2017 Regular Session

By Senator Palumbo

Read first time 01/26/17. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to promoting a sustainable, local renewable
2 energy industry through modifying renewable energy system tax
3 incentives and providing guidance for renewable energy system
4 component recycling; amending RCW 82.16.120, 82.16.130, 82.08.962,
5 82.08.963, 82.12.962, and 82.12.963; adding new sections to chapter
6 82.16 RCW; adding a new chapter to Title 70 RCW; creating a new
7 section; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature finds and declares that
10 stimulating local investment in distributed renewable energy
11 generation is an important part of a state energy strategy, helping
12 to increase energy independence from fossil fuels, promote economic
13 development, hedge against the effects of climate change, and attain
14 environmental benefits. The legislature intends to increase the
15 effectiveness of the existing renewable energy investment cost
16 recovery program by reducing the maximum incentive rate provided for
17 each kilowatt-hour of electricity generated by a renewable energy
18 system over the period of the program and by creating opportunities
19 for broader participation by low-income individuals and others who
20 may not own the premises where a renewable energy system may be
21 installed. The legislature intends to provide an incentive sufficient

1 to promote installation of systems through 2021, at which point the
2 legislature expects that the state's renewable energy industry will
3 be capable of sustained growth and vitality without the cost recovery
4 incentive.

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

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

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

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

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

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

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

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

33 (1)(a) Any individual, business, local governmental entity, not
34 in the light and power business or in the gas distribution business,
35 or a participant in a community solar project may apply to the light
36 and power business serving the situs of the system, each fiscal year
37 beginning on July 1, 2005, and ending June 30, 2017, for an
38 investment cost recovery incentive for each kilowatt-hour from a
39 customer-generated electricity renewable energy system.

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

4 (c) In the case of a community solar project as defined in RCW
5 82.16.110(2)(a)(iii), the company owning the community solar project
6 must apply for the investment cost recovery incentive on behalf of
7 each member of the company.

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

16 (b) No person may submit a certification to the department under
17 (a) of this subsection after June 30, 2017.

18 (c) The certification must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

7 ~~((b))~~ (d) Within thirty days of receipt of the certification
8 the department of revenue must notify the applicant by mail, or
9 electronically as provided in RCW 82.32.135, whether the renewable
10 energy system qualifies for an incentive under this section. The
11 department may consult with the climate and rural energy development
12 center to determine eligibility for the incentive. System
13 certifications and the information contained therein are not
14 confidential tax information under RCW 82.32.330 and are subject to
15 disclosure ~~((under RCW 82.32.330(3)(1))~~).

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

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

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

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

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

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

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

36 (b) Within sixty days of receipt of the incentive certification
37 the light and power business serving the situs of the system must
38 notify the applicant in writing whether the incentive payment will be
39 authorized or denied. The business may consult with the climate and
40 rural energy development center to determine eligibility for the

1 incentive payment. Incentive certifications and the information
2 contained therein are not confidential tax information under RCW
3 82.32.330 and are subject to disclosure (~~under RCW~~
4 ~~82.32.330(3)(1)~~)).

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

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

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

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

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

38 (c) For customer-generated electricity produced using an
39 anaerobic digester, or by other solar equipment or using a wind

1 generator equipped with blades manufactured in Washington state, one;
2 and

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

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

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

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

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

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

26 (6) If requests for the investment cost recovery incentive exceed
27 the amount of funds available for credit to the participating light
28 and power business, the incentive payments must be reduced
29 proportionately, unless and until additional funds for credit become
30 available.

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

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

1 (9) No incentive may be paid under this section for kilowatt-
2 hours generated before July 1, 2005, or after June 30, (~~2020~~) 2017.

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

10 NEW SECTION. Sec. 4. A new section is added to chapter 82.16
11 RCW to read as follows:

12 (1) The legislature intends to allow participants in the
13 renewable energy investment cost recovery program under RCW 82.16.120
14 to continue to receive payments for electricity produced through June
15 2020, at the rates they anticipated when they first received notice
16 of eligibility from the department under RCW 82.16.120, unless and
17 until requests for the incentive under RCW 82.16.120, this section,
18 and section 7 of this act cumulatively exceed the amount of funds
19 available for credit under RCW 82.16.130, as amended by this act.

20 (2) A person or community solar project administrator who has,
21 before June 1, 2017, submitted a complete certification to the
22 department under RCW 82.16.120(2) to continue to receive the
23 investment cost recovery incentive must apply to the Washington State
24 University extension energy program for a certification authorizing
25 the utility serving the situs of the renewable energy system to remit
26 an investment cost recovery incentive for each kilowatt-hour
27 generated by the renewable energy system ending June 30, 2020.

28 (3)(a) The Washington State University extension energy program
29 must establish an application process and form by which to collect
30 the system operation data described in section 7(7)(b) of this act
31 from each person or community solar project administrator applying
32 for a certification. The Washington State University extension energy
33 program must notify any applicant that providing this data is a
34 condition of certification and that any certification issued pursuant
35 to this section is void as of June 30, 2018, if the applicant has
36 failed to provide the data by that date.

37 (b) A person or community solar project administrator whose
38 incentive payment has been reduced proportionately by a light and
39 power business pursuant to RCW 82.16.120(6) may, as part of the

1 application for certification under this section, authorize the
2 Washington State University extension energy program to notify and
3 coordinate with the utility serving the situs of the renewable energy
4 system to account for and remit, with the next annual incentive
5 payment notification, payment of a one-time investment cost recovery
6 incentive payment to make whole the rates they anticipated when they
7 first received notice of eligibility from the department under RCW
8 82.16.120.

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

11 (1) A light and power business (~~(shall be)~~) is allowed a credit
12 against taxes due under this chapter in an amount equal to
13 (~~(investment cost recovery)~~);

14 (a) Incentive payments made in any fiscal year under RCW
15 82.16.120 and section 7 of this act; and

16 (b) Any fees a utility is allowed to recover pursuant to section
17 7(5) of this act.

18 (2) The credits (~~(shall)~~) must be taken in a form and manner as
19 required by the department. The credit under this section for the
20 fiscal year may not exceed (~~(one-half)~~) two percent of the
21 businesses' taxable power sales generated in calendar year 2014 and
22 due under RCW 82.16.020(1)(b) or ((one)) two hundred fifty thousand
23 dollars, whichever is greater. Incentive payments to participants in
24 a ((utility-owned)) community solar project ((as defined in RCW
25 82.16.110(2)(a)(ii)) may only account for up to twenty-five percent
26 of the total allowable credit. Incentive payments ((to participants
27 in a company-owned community solar project as defined in RCW
28 82.16.110(2)(a)(iii) may only account for up to five percent of the
29 total)) for electricity produced by commercial-scale systems may only
30 account for up to twenty-five percent of the allowable credit.

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

35 (~~(+2)~~) (4) For any business that has claimed credit for amounts
36 that exceed the correct amount of the incentive payable under RCW
37 82.16.120, the amount of tax against which credit was claimed for the
38 excess payments (~~(shall be)~~) is immediately due and payable. The

1 department may deduct amounts due from future credits claimed by the
2 business.

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

10 ((+3)) (b) A business is not liable for excess payments made in
11 reliance on amounts reported by the Washington State University
12 extension energy program as due and payable as provided under section
13 7(19) of this act, if such amounts are later found to be abnormal or
14 inaccurate due to no fault of the business.

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

18 (6) The right to earn tax credits under this section expires June
19 30, ((2020)) 2029. Credits may not be claimed after June 30, ((2021))
20 2030.

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

23 The definitions in this section apply throughout this section and
24 sections 7 and 8 of this act unless the context clearly requires
25 otherwise.

26 (1) "Certification" means the authorization issued by the
27 Washington State University extension energy program establishing a
28 person's eligibility to receive annual incentive payments from the
29 person's utility for a term of eight years.

30 (2) "Commercial-scale system" means a renewable energy system or
31 systems other than a community solar project with a combined
32 nameplate capacity greater than twelve kilowatts that meets the
33 applicable system eligibility requirements established in section 7
34 of this act.

35 (3) "Community solar project" means a solar energy system that
36 has a direct current nameplate generating capacity that is no larger
37 than five hundred kilowatts and meets the applicable eligibility
38 requirements established in sections 7 and 8 of this act.

1 (4) "Community solar program" means a program organized and
2 administered by a utility or a nonprofit organization to develop
3 community solar projects pursuant to section 8 of this act.

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

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

11 (7) "Nonprofit organization" means an entity or organization that
12 is exempt from taxation under section 501(c)(3) of the internal
13 revenue code.

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

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

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

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

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

27 (1) Beginning July 1, 2017, the following persons may apply to
28 the Washington State University extension energy program to receive a
29 certification authorizing the utility serving the situs of a
30 renewable energy system in the state of Washington to remit an annual
31 production incentive for each kilowatt-hour of alternating current
32 electricity generated by the renewable energy system:

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

35 (b) The nonprofit organization or utility that administers a
36 community solar project meeting the eligibility requirements outlined
37 in section 8 of this act and applies for certification on behalf of
38 each of the project participants.

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

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

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

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

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

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

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

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

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

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

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

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

25 (b) The Washington State University extension energy program must
26 establish a reporting and fee-for-service system to accept
27 electricity production data from the utility or the customer, with
28 the reporting entity selected at the utility's option as described in
29 subsection (18) of this section. The fee-for-service agreement must
30 allow for electronic reporting or reporting by mail, may be specific
31 to individual utilities, and must recover only the program's costs of
32 obtaining the electricity production data and incorporating it into
33 an electronic format. A statement of the amount due for the fee-for-
34 service shall be provided to the utility by the Washington State
35 University extension energy program with the report provided to the
36 utility pursuant to subsection (19)(a) of this section. The utility
37 may determine how to assess and remit the fee, and the utility shall
38 be allowed a credit for fees paid under this subsection (5) against
39 taxes due, as provided in RCW 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 eight years and entitles the
13 applicant or, in the case of a community solar project, the
14 participant, to receive incentive payments for electricity generated
15 for a period of eight years from the date the renewable energy system
16 commences operation, or the date the system is certified, whichever
17 date is later. For purposes of this subsection, the Washington State
18 University extension energy program must define when a renewable
19 energy system commences operation and provide notice of such date to
20 the recipient and the utility serving the situs of the system.
21 Certification may not be retroactively changed except to correct
22 later discovered errors that were made during the original
23 application or certification process.

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

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

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

32 (12) The Washington State University extension energy program
33 must determine the total incentive rate for a new renewable energy
34 system certification by adding to the base rate any applicable made-
35 in-Washington bonus rate. A made-in-Washington bonus rate is provided
36 for a renewable energy system or a community solar project with solar
37 modules made in Washington or with a wind turbine or tower that is
38 made in Washington. Both the base rates and bonus rate vary,
39 depending on the fiscal year in which the system is certified and the

1 type of renewable energy system being certified, as provided in the
2 following table:

3	Fiscal year	Base rate -	Base rate -	Base rate -	Made in
4	of system	residential-scale	commercial-scale	community	Washington
5	certification			solar	bonus
6	2018	\$0.16	\$0.06	\$0.16	\$0.08
7	2019	\$0.14	\$0.04	\$0.14	\$0.07
8	2020	\$0.12	\$0.02	\$0.12	\$0.07
9	2021	\$0.10	\$0.02	\$0.10	\$0.06

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 for which the
13 Washington State University extension energy program estimates that
14 twenty-five percent of available funds for credit have been allocated
15 to community solar projects;

16 (b) For commercial-scale systems in any fiscal year for which the
17 Washington State University extension energy program estimates that
18 twenty-five percent of available funds for credit have been allocated
19 to commercial-scale systems; and

20 (c) For any renewable energy system served by a utility, if
21 certification is likely to result in incentive payments by that
22 utility exceeding the utility's available funds for credit under RCW
23 82.16.130.

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

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

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

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

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

36 (19)(a) The Washington State University extension energy program
37 must calculate for the year and provide to the utility the amount of
38 the incentive payment due to each participant and the total amount of
39 credit against tax due available to the utility under RCW 82.16.130
40 that has been allocated as annual incentive payments. Upon notice to

1 the Washington State University extension energy program, a utility
2 may opt to directly perform this calculation and provide its results
3 to the Washington State University extension energy program.

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

12 (20)(a) The utility must issue the incentive payment within
13 thirty days of receipt of the information required under subsection
14 (19)(a) of this section from the Washington State University
15 extension energy program. The utility must resume the incentive
16 payments withheld under subsection (19)(b) of this section within
17 thirty days of receiving notice from the Washington State University
18 extension energy program that the claim has been demonstrated
19 accurate and valid and payment should be resumed.

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

24 (21) Beginning January 1, 2018, the Washington State University
25 extension energy program must post on its web site and update at
26 least monthly a report, by utility, of:

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

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

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

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

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

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

14 (25) No certification may be issued under this section after June
15 30, 2021.

16 (26) The Washington State University extension energy program
17 must collect a one-time fee for applications under this section of
18 one hundred dollars per applicant. The Washington State University
19 extension energy program must deposit all revenue generated by this
20 fee into the state general fund. The Washington State University
21 extension energy program must administer and budget for the program
22 established in RCW 82.16.120, this section, and sections 4 and 8 of
23 this act in a manner that ensures its administrative costs through
24 June 30, 2022, are completely met by the revenues from this fee. If
25 the Washington State University extension energy program determines
26 that the fee authorized in this subsection is insufficient to cover
27 the administrative costs through June 30, 2022, the Washington State
28 University extension energy program must report to the legislature on
29 costs incurred and fees collected and demonstrate why a different fee
30 amount or funding mechanism should be authorized.

31 (27) The Washington State University extension energy program
32 may, through a public process, develop any program requirements and
33 policies necessary for the administration of this section, RCW
34 82.16.120, and sections 2, 6, and 8 of this act. The department is
35 authorized, in consultation with the Washington State University
36 extension energy program, to adopt any rules necessary for
37 administration of the program.

38 (28) Applications, certifications, requests for incentive
39 payments under this section, and the information contained therein

1 are not deemed tax information under RCW 82.32.330 and are subject to
2 disclosure.

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

5 (1) The purpose of the community solar project is to facilitate
6 broad, equitable community investment in and access to solar power.
7 Beginning July 1, 2017, a utility or nonprofit organization may
8 organize and administer a community solar project as provided in this
9 section.

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

16 (3) A utility or nonprofit administrator of a community solar
17 project must administer the project in a transparent manner that
18 allows for fair and nondiscriminatory opportunity for participation
19 by utility customers.

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

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

37 (6) Nothing in the requirement that a community solar project be
38 administered and organized by a nonprofit organization or a utility
39 may be construed as intending to preclude persons from investing in

1 or possessing an ownership interest in a community solar project, or
2 from applying for and receiving federal investment tax credits.

3 NEW SECTION. **Sec. 9.** (1) **Findings.** The legislature finds that a
4 convenient, safe, and environmentally sound system for the recycling
5 of solar modules, minimization of hazardous waste, and recovery of
6 commercially valuable materials must be established. The legislature
7 further finds that the responsibility for this system must be shared
8 among all stakeholders, with manufacturers financing the takeback and
9 recycling system.

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

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

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

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

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

22 (iii) Resells or has resold in or into this state under its own
23 brand names a solar module produced by other suppliers, including
24 retail establishments that sell solar modules under their own brand
25 names;

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

29 (v) Imports or has imported a solar module into the United States
30 that is sold in or into this state. However, if the imported solar
31 module is manufactured by any person with a presence in the United
32 States meeting the criteria of manufacturer under (a) through (d) of
33 this subsection, that person is the manufacturer;

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

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

1 (c) "Rare earth element" means lanthanum, cerium, praseodymium,
2 neodymium, promethium, samarium, europium, gadolinium, terbium,
3 dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium,
4 or scandium.

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

8 (e) "Solar module" means the smallest nondivisible,
9 environmentally protected, essentially planar assembly of solar
10 cells, or other solar collector technology and ancillary parts
11 intended to generate direct current power under sunlight, including
12 but not limited to interconnections, terminals, and protective
13 devices such as diodes, that is capable of interconnecting with the
14 electric grid.

15 (f) "Stewardship plan" means the plan developed by a manufacturer
16 or its designated stewardship organization for a self-directed
17 stewardship program.

18 (g) "Stewardship program" means the activities conducted by a
19 manufacturer or a stewardship organization to fulfill the
20 requirements of this chapter and implement the activities described
21 in its stewardship plan.

22 (3) **Program guidance, review, and approval.** The department must
23 develop guidance for a solar module stewardship and takeback program
24 to guide manufacturers in preparing and implementing a self-directed
25 program to ensure the convenient, safe, and environmentally sound
26 takeback and recycling of solar modules and their components and
27 materials. By January 1, 2018, the department must establish a
28 process to develop guidance for solar module stewardship plans by
29 working with manufacturers, stewardship organizations, and other
30 stakeholders on the content, review, and approval of stewardship
31 plans. The department's process must be fully implemented and
32 stewardship plan guidance completed by January 1, 2019.

33 (4) **Stewardship organization as agent of manufacturer.** A
34 stewardship organization may be designated to act as an agent on
35 behalf of a manufacturer or manufacturers in operating and
36 implementing the stewardship program required under this chapter. Any
37 stewardship organization that has obtained such designation must
38 provide to the department a list of the manufacturers and brand names
39 that the stewardship organization represents within sixty days of its

1 designation by a manufacturer as its agent, or within sixty days of
2 removal of such designation.

3 (5) **Stewardship plans.** Each manufacturer must prepare and submit
4 a stewardship plan to the department by the later of January 1, 2020,
5 or within thirty days of its first sale of a solar module in or into
6 the state.

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

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

13 (ii) Accept all solar modules sold in or into the state after
14 July 1, 2017;

15 (iii) Describe how the program will minimize the release of
16 hazardous substances into the environment and maximize the recovery
17 of other components, including rare earth elements and commercially
18 valuable materials;

19 (iv) Provide for takeback of solar modules at locations that are
20 within the region of the state in which the solar modules were used
21 and are as convenient as reasonably practicable, and if no such
22 location within the region of the state exists, include an
23 explanation for the lack of such location;

24 (v) Identify how relevant stakeholders, including consumers,
25 installers, building demolition firms, and recycling and treatment
26 facilities, will receive information required in order for them to
27 properly dismantle, transport, and treat the end-of-life solar
28 modules in a manner consistent with the objectives described in
29 (a)(iii) of this subsection;

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

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

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

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

4 (7) **Annual report.** (a) Beginning April 1, 2022, and by April 1st
5 in each subsequent year, a manufacturer, or its designated
6 stewardship organization, must provide to the department a report for
7 the previous calendar year that documents implementation of the plan
8 and assesses achievement of the performance goals established in
9 subsection (5)(a)(vi) of this section.

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

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

16 (8) **Enforcement.** Beginning January 1, 2021, no manufacturer may
17 sell or offer for sale a solar module in or into the state unless the
18 manufacturer has submitted to the department a stewardship plan and
19 received plan approval. The department shall send a written warning
20 to a manufacturer that is not participating in a plan. The written
21 warning must inform the manufacturer that it must submit a plan or
22 participate in a plan within thirty days of the notice. The
23 department may assess a penalty of up to ten thousand dollars for
24 each sale of a solar module in or into the state that occurs after
25 the initial written warning. A manufacturer may appeal a penalty
26 issued under this section to the superior court of Thurston county
27 within one hundred eighty days of receipt of the notice.

28 (9) **Fee.** The department may collect a flat fee from participating
29 manufacturers to recover costs associated with the plan guidance,
30 review, and approval process described in subsection (3) of this
31 section. Other administrative costs incurred by the department for
32 program implementation activities, including stewardship plan review
33 and approval, enforcement, and any rule making, may be recovered by
34 charging every manufacturer an annual fee calculated by dividing
35 department administrative costs by the manufacturer's pro rata share
36 of the Washington state solar module sales in the most recent
37 preceding calendar year, based on best available information. The
38 sole purpose of assessing the fees authorized in this subsection is
39 to predictably and adequately fund the department's costs of
40 administering the solar module recycling program.

1 (10) **Account.** The solar module recycling account is created in
2 the custody of the state treasurer. All fees collected from
3 manufacturers under this chapter must be deposited in the account.
4 Expenditures from the account may be used only for administering this
5 chapter. Only the director of the department or the director's
6 designee may authorize expenditures from the account. The account is
7 subject to the allotment procedures under chapter 43.88 RCW, but an
8 appropriation is not required for expenditures. Funds in the account
9 may not be diverted for any purpose or activity other than those
10 specified in this section.

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

14 (12) **National program.** In lieu of preparing a stewardship plan
15 and as provided by subsection (5) of this section, a manufacturer may
16 participate in a national program for the convenient, safe, and
17 environmentally sound takeback and recycling of solar modules and
18 their components and materials. The department must determine that
19 the manufacturer's participation in the national program is likely to
20 achieve environmental outcomes in the state of Washington
21 substantially equivalent to those achieved by a departmentally
22 approved stewardship plan and is likely to be more cost-effective for
23 the manufacturer than participation in a departmentally approved
24 stewardship plan. The department may determine substantial
25 equivalence if it determines that the national program adequately
26 addresses each of the elements of a stewardship plan outlined in
27 subsection (5)(a) of this section and includes an enforcement
28 mechanism reasonably calculated to ensure a manufacturer's compliance
29 with the national program. Upon issuing a determination of
30 substantial equivalence, the department must notify affected
31 stakeholders including the manufacturer. If the national program is
32 discontinued or the department determines the national program no
33 longer provides equivalent environmental outcomes in Washington, the
34 department must notify the manufacturer. The manufacturer must
35 provide a stewardship plan as described in subsection (5)(a) of this
36 section to the department for approval within thirty days of
37 notification.

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

1 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
2 paid the tax imposed by RCW 82.08.020 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 tax
13 levied by RCW 82.08.020 does not apply to the sale of machinery and
14 equipment described in (a) of this subsection that are used directly
15 in generating electricity or to sales of or charges made for labor
16 and services rendered in respect to installing such machinery and
17 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 purchaser is eligible for an exemption under this subsection (1)(c)
22 in the form of a remittance.

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

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

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

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

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

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

15 (3)(a) Machinery and equipment is "used directly" in generating
16 electricity by wind energy, solar energy, biomass energy, tidal or
17 wave energy, geothermal resources, anaerobic digestion, technology
18 that converts otherwise lost energy from exhaust, or landfill gas
19 power if it provides any part of the process that captures the energy
20 of the wind, sun, biomass energy, tidal or wave energy, geothermal
21 resources, anaerobic digestion, technology that converts otherwise
22 lost energy from exhaust, or landfill gas, converts that energy to
23 electricity, and stores, transforms, or transmits that electricity
24 for entry into or operation in parallel with electric transmission
25 and distribution systems.

26 (b) Machinery and equipment is "used directly" in generating
27 electricity by fuel cells if it provides any part of the process that
28 captures the energy of the fuel, converts that energy to electricity,
29 and stores, transforms, or transmits that electricity for entry into
30 or operation in parallel with electric transmission and distribution
31 systems.

32 (4)(a) A purchaser claiming an exemption in the form of a
33 remittance under subsection (1)(c) of this section must pay the tax
34 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
35 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
36 may then apply to the department for remittance in a form and manner
37 prescribed by the department. A purchaser may not apply for a
38 remittance under this section more frequently than once per quarter.
39 The purchaser must specify the amount of exempted tax claimed and the
40 qualifying purchases for which the exemption is claimed. The

1 purchaser must retain, in adequate detail, records to enable the
2 department to determine whether the purchaser is entitled to an
3 exemption under this section, including: Invoices; proof of tax paid;
4 and documents describing the machinery and equipment.

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

10 (5) The exemption provided by this section expires June 30, 2017,
11 as it applies to: (a) Machinery and equipment that is used directly
12 in the generation of electricity using solar energy and capable of
13 generating no more than five hundred kilowatts of electricity; or (b)
14 sales of or charges made for labor and services rendered in respect
15 to installing such machinery and equipment.

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

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

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

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

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

37 (b) "Machinery and equipment" does not include: (i) Hand-powered
38 tools; (ii) property with a useful life of less than one year; (iii)
39 repair parts required to restore machinery and equipment to normal

1 working order; (iv) replacement parts that do not increase
2 productivity, improve efficiency, or extend the useful life of
3 machinery and equipment; (v) buildings; or (vi) building fixtures
4 that are not integral and necessary to the generation of electricity
5 that are permanently affixed to and become a physical part of a
6 building;

7 (c) Machinery and equipment is "used directly" in generating
8 electricity with solar energy if it provides any part of the process
9 that captures the energy of the sun, converts that energy to
10 electricity, and stores, transforms, or transmits that electricity
11 for entry into or operation in parallel with electric transmission
12 and distribution systems; and

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

20 (3) The exemption provided by this section for the sales of
21 machinery and equipment that is used directly in the generation of
22 electricity using solar energy, or for sales of or charges made for
23 labor or services rendered in respect to installing such machinery
24 and equipment, expires June 30, 2017.

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

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

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

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

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

12 (2)(a) A person claiming an exemption in the form of a remittance
13 under subsection (1)(c) of this section must pay the tax imposed by
14 RCW 82.12.020 and all applicable local use taxes imposed under the
15 authority of chapters 82.14 and 81.104 RCW. The consumer may then
16 apply to the department for remittance in a form and manner
17 prescribed by the department. A consumer may not apply for a
18 remittance under this section more frequently than once per quarter.
19 The consumer must specify the amount of exempted tax claimed and the
20 qualifying purchases or acquisitions for which the exemption is
21 claimed. The consumer must retain, in adequate detail, records to
22 enable the department to determine whether the consumer is entitled
23 to an exemption under this section, including: Invoices; proof of tax
24 paid; and documents describing the machinery and equipment.

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

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

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

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

35 (a) To machinery and equipment used directly in the generation of
36 electricity using solar energy and capable of generating no more than
37 five hundred kilowatts of electricity, or to sales of or charges made
38 for labor and services rendered in respect to installing such
39 machinery and equipment, when first use within this state of such

1 machinery and equipment, or labor and services, occurs after June 30,
2 2017; and

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

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

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

11 (1) The provisions of this chapter do not apply with respect to
12 machinery and equipment used directly in generating not more than ten
13 kilowatts of electricity or producing not more than three million
14 British thermal units per day using solar energy, or to the use of
15 labor and services rendered in respect to installing such machinery
16 and equipment.

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

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

19 (a) To the use of machinery and equipment used directly in the
20 generation of electricity using solar energy, or to the use of labor
21 and services rendered in respect to installing such machinery and
22 equipment, when first use within this state of such machinery and
23 equipment, or labor and services, occurs after June 30, 2017; and

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

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

30 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.16
31 RCW to read as follows:

32 (1) Any person who sells a solar module to a customer-owner, or
33 who receives compensation from a customer-owner in exchange for
34 installing a solar module for use in a residential-scale system or
35 commercial-scale system in Washington must provide to the customer-
36 owner current information regarding the tax incentives available to
37 the customer-owner under Washington law, including the scheduled
38 expiration date of any tax incentives and the maximum period of time

1 during which the customer-owner may benefit from any tax incentives,
2 based on the law as it existed on the date of sale or installation of
3 the solar module.

4 (2) The definitions in section 6 of this act apply to this
5 section.

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

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

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

20 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of
22 the state government and its existing public institutions, and takes
23 effect immediately.

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