
SUBSTITUTE SENATE BILL 5939

State of Washington 65th Legislature 2017 3rd Special Session

By Senate Ways & Means (originally sponsored by Senators Ericksen and Palumbo)

READ FIRST TIME 06/30/17.

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 section to chapter 43.180 RCW; adding a new
7 chapter to Title 70 RCW; creating a new section; and declaring an
8 emergency.

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

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

1 installed. The legislature intends to provide an incentive sufficient
2 to promote installation of systems through 2021, at which point the
3 legislature expects that the state's renewable energy industry will
4 be capable of sustained growth and vitality without the cost recovery
5 incentive. The legislature intends for the program to balance the
6 deployment of community solar and shared commercial solar projects in
7 order to support participation in renewable energy generation, and
8 that deployment of community solar projects is balanced among
9 eligible utilities, nonprofits, and local housing authorities, as
10 doing so will support maximum deployment of renewable energy
11 generation throughout the state.

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

14 (1) This section is the tax preference performance statement for
15 the tax preference and incentives created under RCW 82.16.130 and
16 section 6 of this act. This performance statement is only intended to
17 be used for subsequent evaluation of the tax preference and
18 incentives. It is not intended to create a private right of action by
19 any party or be used to determine eligibility for preferential tax
20 treatment.

21 (2) The legislature categorizes the tax preference created under
22 RCW 82.16.130 and incentive payments authorized in section 6 of this
23 act as intended to:

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

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

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

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

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

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

36 (4) It is the legislature's intent to provide the incentives in
37 section 6 of this act and RCW 82.16.130 in order to ensure the
38 sustainable job growth and vitality of the state's renewable energy
39 sector. The purpose of the incentive is to reduce the costs

1 associated with installing and operating solar energy systems by
2 persons or entities receiving the incentive.

3 (5) As part of its 2021 tax preference reviews, the joint
4 legislative audit and review committee must review the tax
5 preferences and incentives in section 6 of this act and RCW
6 82.16.130. The legislature intends for the legislative auditor to
7 determine that the incentive has achieved its desired outcomes if the
8 following objectives are achieved:

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

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

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

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

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

25 (7) The Washington State University extension energy program must
26 collect, through the application process, data from persons claiming
27 the tax credit under RCW 82.16.130 and persons receiving the
28 incentive payments created in section 6 of this act, as necessary,
29 and may collect data from other interested persons as necessary to
30 report on the performance of this act.

31 (8) All recipients of tax credits or incentive payments awarded
32 under this chapter must provide data necessary to evaluate the tax
33 preference performance objectives in this section as requested by the
34 Washington State University extension energy program or the joint
35 legislative audit and review committee. Failure to comply may result
36 in the loss of a tax credit award or incentive payment in the
37 following year.

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

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

8 (b) In the case of a community solar project as defined in RCW
9 82.16.110(2)(a)(i), the administrator must apply for the investment
10 cost recovery incentive on behalf of each of the other owners.

11 (c) In the case of a community solar project as defined in RCW
12 82.16.110(2)(a)(iii), the company owning the community solar project
13 must apply for the investment cost recovery incentive on behalf of
14 each member of the company.

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

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

25 (c) The certification must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (b) Within sixty days of receipt of the incentive certification
4 the light and power business serving the situs of the system must
5 notify the applicant in writing whether the incentive payment will be
6 authorized or denied. The business may consult with the climate and
7 rural energy development center to determine eligibility for the
8 incentive payment. Incentive certifications and the information
9 contained therein are not confidential tax information under RCW
10 82.32.330 and are subject to disclosure (~~under RCW~~
11 ~~82.32.330(3)(1)~~)).

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

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

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

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

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

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

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

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

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

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

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

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

34 ~~(6) ((If requests for the investment cost recovery incentive~~
35 ~~exceed the amount of funds available for credit to the participating~~
36 ~~light and power business, the incentive payments must be reduced~~
37 ~~proportionately.~~

38 ~~(7))~~ The climate and rural energy development center at
39 Washington State University energy program may establish guidelines
40 and standards for technologies that are identified as Washington

1 manufactured and therefore most beneficial to the state's
2 environment.

3 ~~((+8))~~ (7) The environmental attributes of the renewable energy
4 system belong to the applicant, and do not transfer to the state or
5 the light and power business upon receipt of the investment cost
6 recovery incentive.

7 ~~((+9))~~ (8) No incentive may be paid under this section for
8 kilowatt-hours generated before July 1, 2005, or after June 30,
9 ~~((2020))~~ 2017, except as provided in subsections (10) through (12) of
10 this section.

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

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

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

34 (12)(a) The Washington State University extension energy program
35 must establish an application process and form by which to collect
36 the system operation data described in section 6(7)(a)(iii) of this
37 act from each person or community solar project administrator
38 applying for a certification under subsection (11) of this section.
39 The Washington State University extension energy program must notify
40 any applicant that providing this data is a condition of

1 certification and that any certification issued pursuant to this
2 section is void as of June 30, 2018, if the applicant has failed to
3 provide the data by that date.

4 (b) Beginning July 1, 2018, the Washington State University
5 extension energy program must, in a form and manner that is
6 consistent with the roles and processes established under section 6
7 (19) and (20) of this act, calculate for the year and provide to the
8 utility the amount of the incentive payment due to each participant
9 under subsection (11) of this section.

10 **Sec. 4.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to
11 read as follows:

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

15 (a) Incentive payments made in any fiscal year under RCW
16 82.16.120 and section 6 of this act; and

17 (b) Any fees a utility is allowed to recover pursuant to section
18 6(5) of this act.

19 (2) The credits (~~shall~~) must be taken in a form and manner as
20 required by the department. The credit taken under this section for
21 the fiscal year may not exceed one and one-half percent of the
22 businesses' taxable power sales generated in calendar year 2014 and
23 due under RCW 82.16.020(1)(b) or ((one)) two hundred fifty thousand
24 dollars, whichever is greater. ((Incentive payments to participants
25 in a utility owned community solar project as defined in RCW
26 82.16.110(2)(a)(ii) may only account for up to twenty five percent of
27 the total allowable credit. Incentive payments to participants in a
28 company owned community solar project as defined in RCW
29 82.16.110(2)(a)(iii) may only account for up to five percent of the
30 total 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 6(20) 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)) for
19 incentive payments made under RCW 82.16.120 expires June 30, 2020.
20 Credits may not be claimed after June 30, 2021.

21 (7) The right to earn tax credits for incentive payments made
22 under section 6 of this act expires June 30, ((2020)) 2029. Credits
23 may not be claimed after June 30, ((2021)) 2030.

24 NEW SECTION. Sec. 5. A new section is added to chapter 82.16
25 RCW to read as follows:

26 The definitions in this section apply throughout this section and
27 sections 6 through 8 of this act unless the context clearly requires
28 otherwise.

29 (1) "Administrator" means the utility, nonprofit, or other local
30 housing authority that organizes and administers a community solar
31 project as provided in sections 6 and 7 of this act.

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

36 (3) "Commercial-scale system" means a renewable energy system or
37 systems other than a community solar project or a shared commercial
38 solar project with a combined nameplate capacity greater than twelve

1 kilowatts that meets the applicable system eligibility requirements
2 established in section 6 of this act.

3 (4) "Community solar project" means a solar energy system that
4 has a direct current nameplate generating capacity that is no larger
5 than one thousand kilowatts and meets the applicable eligibility
6 requirements established in sections 6 and 7 of this act.

7 (5) "Consumer-owned utility" has the same meaning as in RCW
8 19.280.020.

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

14 (7) "Electric utility" or "utility" means a consumer-owned
15 utility or investor-owned utility as those terms are defined in RCW
16 19.280.020.

17 (8) "Governing body" has the same meaning as provided in RCW
18 19.280.020.

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

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

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

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

36 (13) "Shared commercial solar project" means a solar energy
37 system, owned or administered by an electric utility, with a combined
38 nameplate capacity of greater than one megawatt and not more than
39 five megawatts and meets the applicable eligibility requirements
40 established in sections 6 and 8 of this act.

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

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

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

12 (b) An administrator of a community solar project meeting the
13 eligibility requirements outlined in section 7 of this act and
14 applies for certification on behalf of each of the project
15 participants; or

16 (c) A utility or a business under contract with a utility that
17 administers a shared commercial solar project that meets the
18 eligibility requirements in section 8 of this act and applies for
19 certification on behalf of each of the project participants.

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

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

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

37 (c) The Washington State University extension energy program may
38 issue a recertification for a residential-scale or commercial-scale
39 system if a customer makes investments resulting in an expansion of
40 the system's nameplate capacity. Such recertification expires on the

1 same day as the original certification for the residential-scale or
2 commercial-scale system and applies to the entire system the
3 incentive rates and program rules in effect as of the date of the
4 recertification.

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

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

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

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

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

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

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

36 (5)(a) The Washington State University extension energy program
37 may certify a renewable energy system that is connected to equipment
38 capable of measuring the electricity production of the system and
39 interconnecting with the utility's system in a manner that allows the
40 utility, or the customer at the utility's option, to measure and

1 report to the Washington State University extension energy program
2 the total amount of electricity produced by the renewable energy
3 system.

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

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

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

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

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

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

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

34 (i) A signed statement that the applicant has not previously
35 received a notice of eligibility from the department under RCW
36 82.16.120 entitling the applicant to receive annual incentive
37 payments for electricity generated by the renewable energy system at
38 the same meter location;

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

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

3 (iv) Any other information the Washington State University
4 extension energy program deems necessary in determining eligibility
5 and incentive levels, administering the program, tracking progress
6 toward achieving the limits on program participation established in
7 RCW 82.16.130, or facilitating the review of the performance of the
8 tax preferences by the joint legislative audit and review committee,
9 as described in section 2 of this act; and

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

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

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

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

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

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

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

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

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

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

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

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

38 (12) The Washington State University extension energy program
39 must determine the total incentive rate for a new renewable energy
40 system certification by adding to the base rate any applicable made-

1 in-Washington bonus rate. A made-in-Washington bonus rate is provided
 2 for a renewable energy system or a community solar project with solar
 3 modules made in Washington or with a wind turbine or tower that is
 4 made in Washington. Both the base rates and bonus rate vary,
 5 depending on the fiscal year in which the system is certified and the
 6 type of renewable energy system being certified, as provided in the
 7 following table:

8	Fiscal year	Base rate -	Base rate -	Base rate -	Base rate - shared	Made in
9	of system	residential-scale	commercial-scale	community solar	commercial solar	Washington
10	certification					bonus
11	2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
12	2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
13	2020	\$0.12	\$0.02	\$0.12	\$0.02	\$0.03
14	2021	\$0.10	\$0.02	\$0.10	\$0.02	\$0.02

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

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

24 (b) For commercial-scale systems in any fiscal year for which the
 25 Washington State University extension energy program estimates that
 26 twenty-five percent of the remaining funds for credit available to a
 27 utility for renewable energy systems certified under this section as
 28 of July 1, 2017, have been allocated to commercial-scale systems;

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

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

36 (14) If the Washington State University extension energy program
 37 ceases issuing new certifications during a fiscal year or biennium as
 38 provided in subsection (13) of this section, in the following fiscal

1 year or biennium, or when additional funds are available for credit
2 such that the thresholds described in subsection (13) of this section
3 are no longer exceeded, the Washington State University extension
4 energy program must resume issuing new certifications using a method
5 of awarding certifications that results in equitable and orderly
6 allocation of benefits to applicants.

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

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

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

33 (18) The manufacturer of a renewable energy system component
34 subject to a bonus rate under subsection (12) of this section may
35 apply to the Washington State University extension energy program to
36 receive a determination of eligibility for such bonus rates. The
37 Washington State University extension energy program must publish a
38 list of components that have been certified as eligible for such
39 bonus rates. The Washington State University extension energy program
40 may assess an equipment certification fee to recover its costs. The

1 Washington State University extension energy program must deposit all
2 revenue generated by this fee into the state general fund.

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

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

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

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

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

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

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

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

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

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

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

35 (26) No certification may be issued under this section after June
36 30, 2021.

37 (27) The Washington State University extension energy program
38 must collect a one-time fee for applications submitted under
39 subsection (1) of this section of one hundred twenty-five dollars per
40 applicant. The Washington State University extension energy program

1 must deposit all revenue generated by this fee into the state general
2 fund. The Washington State University extension energy program must
3 administer and budget for the program established in RCW 82.16.120,
4 this section, and section 7 of this act in a manner that ensures its
5 administrative costs through June 30, 2022, are completely met by the
6 revenues from this fee. If the Washington State University extension
7 energy program determines that the fee authorized in this subsection
8 is insufficient to cover the administrative costs through June 30,
9 2022, the Washington State University extension energy program must
10 report to the legislature on costs incurred and fees collected and
11 demonstrate why a different fee amount or funding mechanism should be
12 authorized.

13 (28) The Washington State University extension energy program
14 may, through a public process, develop any program requirements,
15 policies, and processes necessary for the administration or
16 implementation of this section, RCW 82.16.120, and sections 2 and 7
17 of this act. The department is authorized, in consultation with the
18 Washington State University extension energy program, to adopt any
19 rules necessary for administration or implementation of the program
20 established under this section and section 7 of this act.

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

25 (30)(a) By November 1, 2019, and in compliance with RCW
26 43.01.036, the Washington State University extension energy program
27 must submit a report to the legislature that includes the following:

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

31 (ii) The number of utilities that are approaching or have reached
32 the credit limit established under RCW 82.16.130(2) or the thresholds
33 established under section 6(13) of this act;

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

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

39 (A) An evaluation of whether or not community solar projects are
40 being deployed in low-income and moderate-income communities, as

1 those terms are defined in RCW 43.63A.510, including a description of
2 any barriers to project deployment in these communities;

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

6 (C) A description of any barriers to participation by nonprofits
7 and local housing authorities in the incentive program established
8 under this section and under section 7 of this act;

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

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

15 (b) By December 31, 2019, the legislature must review the report
16 submitted under (a) of this subsection and determine whether the
17 credit limit established under RCW 82.16.130(2) should be increased
18 to two percent of a light and power business' taxable power sales
19 generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or
20 two hundred fifty thousand dollars, whichever is greater, in order to
21 achieve the legislative intent under section 1 of this act.

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

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

28 (2) A community solar project must have a direct current
29 nameplate capacity that is no more than one thousand kilowatts and
30 must have at least ten participants or one participant for every ten
31 kilowatts of direct current nameplate capacity, whichever is greater.
32 A community solar project that has a direct current nameplate
33 capacity greater than five hundred kilowatts must be subject to a
34 standard interconnection agreement with the utility serving the situs
35 of the community solar project. Except for community solar projects
36 authorized under subsection (9) of this section, each participant
37 must be a customer of the utility providing service at the situs of
38 the community solar project.

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

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

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

14 (a) Ownership information;

15 (b) Contact information for technical management questions;

16 (c) Business address;

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

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

21 (6) The administrator of a community solar project must provide
22 the information required in subsection (5) of this section to the
23 Washington State University extension energy program at the time it
24 submits the application allowed under section 6(1) of this act.

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

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

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

36 (c) All recurring and nonrecurring charges;

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

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

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

3 (g) Contact information for questions and complaints; and

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

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

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

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

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

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

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

35 (12) Except for parties engaged in actions and transactions
36 regulated under laws administered by other authorities and exempted
37 under RCW 19.86.170, a violation of this section constitutes an
38 unfair or deceptive act in trade or commerce in violation of chapter
39 19.86 RCW, the consumer protection act. Acts in violation of this act
40 are not reasonable in relation to the development and preservation of

1 business, and constitute matters vitally affecting the public
2 interest for the purpose of applying the consumer protection act,
3 chapter 19.86 RCW.

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

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

10 (1) The purpose of a shared commercial solar project is to
11 provide an entry point in solar utilization by large load customers
12 in a manner that achieves economies of scale and maximizes system
13 performance without limitations posed by on-site systems where sun
14 exposure is not optimal or structural and other site deficiencies
15 preclude solar development.

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

19 (3) A shared commercial solar project must have a direct current
20 nameplate capacity greater than one megawatt and no more than five
21 megawatts and must have at least five participants. To receive
22 incentive payments under section 6 of this act, each participant must
23 be a customer of the utility providing service at the situs of the
24 shared commercial solar project and must be located in the state of
25 Washington.

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

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

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

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

5 (a) All recurring and nonrecurring charges;

6 (b) A description of the billing and payment procedures;

7 (c) Production projections and a description of the methodology
8 used to develop the projections;

9 (d) An estimate of the project participant's share of any
10 incentive payment over the life of the contract;

11 (e) A description of contract terms that relate to project
12 underperformance;

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

16 (g) Contact information for questions and complaints; and

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

19 (8) If a utility opts to contract with a nonutility administrator
20 to offer a shared commercial solar program, the utility must publish,
21 without disclosing proprietary information, the name of the
22 nonutility administrator contracted by the utility as part of its
23 shared commercial solar program.

24 (9) In order to meet the intent of this act of promoting a
25 sustainable, local renewable energy industry, the legislature prefers
26 award of the majority of the installation of shared commercial solar
27 projects be given to contractors based in Washington state. In the
28 event the majority of the installation of a shared commercial solar
29 project is awarded to out-of-state contractors, the administrator
30 must submit to the Washington State University extension energy
31 program the reasons for using out-of-state contractors, the
32 percentage of installation work performed by out-of-state
33 contractors, and a cost comparison of the installation services
34 performed by out-of-state contractors against the same services
35 performed by Washington-based contractors.

36 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.16
37 RCW to read as follows:

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

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

9 (2) The definitions in section 5 of this act apply to this
10 section.

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

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

22 NEW SECTION. **Sec. 10.** (1) **Findings.** The legislature finds that
23 a convenient, safe, and environmentally sound system for the
24 recycling of photovoltaic modules, minimization of hazardous waste,
25 and recovery of commercially valuable materials must be established.
26 The legislature further finds that the responsibility for this system
27 must be shared among all stakeholders, with manufacturers financing
28 the takeback and recycling system.

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

31 (a) "Consumer electronic device" means any device containing an
32 electronic circuit board that is intended for everyday use by
33 individuals, such as a watch or calculator.

34 (b) "Department" means the department of ecology.

35 (c) "Manufacturer" means any person in business or no longer in
36 business but having a successor in interest who, irrespective of the
37 selling technique used, including by means of distance or remote
38 sale:

1 (i) Manufactures or has manufactured a photovoltaic module under
2 its own brand names for sale in or into this state;

3 (ii) Assembles or has assembled a photovoltaic module that uses
4 parts manufactured by others for sale in or into this state under the
5 assembler's brand names;

6 (iii) Resells or has resold in or into this state under its own
7 brand names a photovoltaic module produced by other suppliers,
8 including retail establishments that sell photovoltaic modules under
9 their own brand names;

10 (iv) Manufactures or has manufactured a cobranded photovoltaic
11 module product for sale in or into this state that carries the name
12 of both the manufacturer and a retailer;

13 (v) Imports or has imported a photovoltaic module into the United
14 States that is sold in or into this state. However, if the imported
15 photovoltaic module is manufactured by any person with a presence in
16 the United States meeting the criteria of manufacturer under (a)
17 through (d) of this subsection, that person is the manufacturer;

18 (vi) Sells at retail a photovoltaic module acquired from an
19 importer that is the manufacturer and elects to register as the
20 manufacturer for those products; or

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

24 (d) "Photovoltaic module" means the smallest nondivisible,
25 environmentally protected assembly of photovoltaic cells or other
26 photovoltaic collector technology and ancillary parts intended to
27 generate electrical power under sunlight, except that "photovoltaic
28 module" does not include a photovoltaic cell that is part of a
29 consumer electronic device for which it provides electricity needed
30 to make the consumer electronic device function. "Photovoltaic
31 module" includes but is not limited to interconnections, terminals,
32 and protective devices such as diodes that:

33 (i) Are installed on, connected to, or integral with buildings;
34 or

35 (ii) Are used as components of freestanding, off-grid, power
36 generation systems, such as for powering water pumping stations,
37 electric vehicle charging stations, fencing, street and signage
38 lights, and other commercial or agricultural purposes.

39 (e) "Rare earth element" means lanthanum, cerium, praseodymium,
40 neodymium, promethium, samarium, europium, gadolinium, terbium,

1 dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium,
2 or scandium.

3 (f) "Reuse" means any operation by which a photovoltaic module or
4 a component of a photovoltaic module changes ownership and is used
5 for the same purpose for which it was originally purchased.

6 (g) "Stewardship plan" means the plan developed by a manufacturer
7 or its designated stewardship organization for a self-directed
8 stewardship program.

9 (h) "Stewardship program" means the activities conducted by a
10 manufacturer or a stewardship organization to fulfill the
11 requirements of this chapter and implement the activities described
12 in its stewardship plan.

13 (3) **Program guidance, review, and approval.** The department must
14 develop guidance for a photovoltaic module stewardship and takeback
15 program to guide manufacturers in preparing and implementing a self-
16 directed program to ensure the convenient, safe, and environmentally
17 sound takeback and recycling of photovoltaic modules and their
18 components and materials. By January 1, 2018, the department must
19 establish a process to develop guidance for photovoltaic module
20 stewardship plans by working with manufacturers, stewardship
21 organizations, and other stakeholders on the content, review, and
22 approval of stewardship plans. The department's process must be fully
23 implemented and stewardship plan guidance completed by July 1, 2019.

24 (4) **Stewardship organization as agent of manufacturer.** A
25 stewardship organization may be designated to act as an agent on
26 behalf of a manufacturer or manufacturers in operating and
27 implementing the stewardship program required under this chapter. Any
28 stewardship organization that has obtained such designation must
29 provide to the department a list of the manufacturers and brand names
30 that the stewardship organization represents within sixty days of its
31 designation by a manufacturer as its agent, or within sixty days of
32 removal of such designation.

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

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

38 (i) Describe how manufacturers will finance the takeback and
39 recycling system, and include an adequate funding mechanism to
40 finance the costs of collection, management, and recycling of

1 photovoltaic modules and residuals sold in or into the state by the
2 manufacturer with a mechanism that ensures that photovoltaic modules
3 can be delivered to takeback locations without cost to the last owner
4 or holder;

5 (ii) Accept all photovoltaic modules sold in or into the state
6 after July 1, 2017;

7 (iii) Describe how the program will minimize the release of
8 hazardous substances into the environment and maximize the recovery
9 of other components, including rare earth elements and commercially
10 valuable materials;

11 (iv) Provide for takeback of photovoltaic modules at locations
12 that are within the region of the state in which the photovoltaic
13 modules were used and are as convenient as reasonably practicable,
14 and if no such location within the region of the state exists,
15 include an explanation for the lack of such location;

16 (v) Identify how relevant stakeholders, including consumers,
17 installers, building demolition firms, and recycling and treatment
18 facilities, will receive information required in order for them to
19 properly dismantle, transport, and treat the end-of-life photovoltaic
20 modules in a manner consistent with the objectives described in
21 (a)(iii) of this subsection;

22 (vi) Establish performance goals, including a goal for the rate
23 of combined reuse and recycling of collected photovoltaic modules as
24 a percentage of the total weight of photovoltaic modules collected,
25 which rate must be no less than eighty-five percent.

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

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

32 (6) **Plan approval.** The department must approve a stewardship plan
33 if it determines the plan addresses each element outlined in the
34 department's guidance.

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

1 (b) The report may include any recommendations to the department
2 or the legislature on modifications to the program that would enhance
3 the effectiveness of the program, including management of program
4 costs and mitigation of environmental impacts of photovoltaic
5 modules.

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

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

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

33 (10) **Account.** The photovoltaic module recycling account is
34 created in the custody of the state treasurer. All fees collected
35 from manufacturers under this chapter must be deposited in the
36 account. Expenditures from the account may be used only for
37 administering this chapter. Only the director of the department or
38 the director's designee may authorize expenditures from the account.
39 The account is subject to the allotment procedures under chapter
40 43.88 RCW, but an appropriation is not required for expenditures.

1 Funds in the account may not be diverted for any purpose or activity
2 other than those specified in this section.

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

6 (12) **National program.** In lieu of preparing a stewardship plan
7 and as provided by subsection (5) of this section, a manufacturer may
8 participate in a national program for the convenient, safe, and
9 environmentally sound takeback and recycling of photovoltaic modules
10 and their components and materials, if substantially equivalent to
11 the intent of the state program. The department may determine
12 substantial equivalence if it determines that the national program
13 adequately addresses and fulfills each of the elements of a
14 stewardship plan outlined in subsection (5)(a) of this section and
15 includes an enforcement mechanism reasonably calculated to ensure a
16 manufacturer's compliance with the national program. Upon issuing a
17 determination of substantial equivalence, the department must notify
18 affected stakeholders including the manufacturer. If the national
19 program is discontinued or the department determines the national
20 program is no longer substantially equivalent to the state program in
21 Washington, the department must notify the manufacturer and the
22 manufacturer must provide a stewardship plan as described in
23 subsection (5)(a) of this section to the department for approval
24 within thirty days of notification.

25 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.180
26 RCW to read as follows:

27 (1) It is the intent of the legislature to investigate methods by
28 which the state may establish or facilitate financing models that
29 allow electric utilities in the state to maximize federal tax
30 incentives and monetize the depreciation of renewable energy systems
31 and other distributed energy assets, with the goal of providing
32 improved access to the benefits of these assets to low and moderate
33 income households as well as broad system benefits to utility
34 ratepayers and state taxpayers.

35 (2) By December 31, 2017, the commission must prepare and submit
36 to the appropriate committees of the legislature a report that
37 assesses financing tools or models for the aggregation, by public or
38 private entities, of federal tax incentives and other financial
39 benefits accruing from the installation, ownership, and operation of

1 renewable energy systems and other distributed energy resources. The
2 report must:

3 (a) Assess the legal, financial, and economic feasibility of one
4 or more financing tools or models for the aggregation of federal tax
5 incentives and other financial benefits accruing from the
6 installation, ownership, and operation of renewable energy systems
7 and other distributed energy resources;

8 (b) Consider the state and federal legal aspects of such a
9 financing tool or model, including considerations of how to structure
10 the role of the state or any subdivision of the state in a manner
11 that is consistent with the Constitution of the state of Washington;
12 and

13 (c) Describe any legislation that may be necessary to facilitate,
14 implement, or create incentives for the private sector to implement
15 such a financing tool or model within the state.

16 (3) Beginning July 1, 2018, the commission may implement a
17 financing tool or model for the aggregation, by public or private
18 entities, of federal tax incentives and other financial benefits
19 accruing from the installation, ownership, and operation of renewable
20 energy systems and other distributed energy resources if the
21 commission determines that it is legally, financially, and
22 economically feasible and that it would further the public policy
23 goals set forth in subsection (1) of this section.

24 **Sec. 12.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each
25 amended to read as follows:

26 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
27 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
28 directly in generating electricity using fuel cells, wind, sun,
29 biomass energy, tidal or wave energy, geothermal resources, anaerobic
30 digestion, technology that converts otherwise lost energy from
31 exhaust, or landfill gas as the principal source of power, or to
32 sales of or charges made for labor and services rendered in respect
33 to installing such machinery and equipment, are eligible for an
34 exemption as provided in this section, but only if the purchaser
35 develops with such machinery, equipment, and labor a facility capable
36 of generating not less than one thousand watts of electricity.

37 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
38 levied by RCW 82.08.020 does not apply to the sale of machinery and
39 equipment described in (a) of this subsection that are used directly

1 in generating electricity or to sales of or charges made for labor
2 and services rendered in respect to installing such machinery and
3 equipment.

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

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

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

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

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

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

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

1 (3)(a) Machinery and equipment is "used directly" in generating
2 electricity by wind energy, solar energy, biomass energy, tidal or
3 wave energy, geothermal resources, anaerobic digestion, technology
4 that converts otherwise lost energy from exhaust, or landfill gas
5 power if it provides any part of the process that captures the energy
6 of the wind, sun, biomass energy, tidal or wave energy, geothermal
7 resources, anaerobic digestion, technology that converts otherwise
8 lost energy from exhaust, or landfill gas, converts that energy to
9 electricity, and stores, transforms, or transmits that electricity
10 for entry into or operation in parallel with electric transmission
11 and distribution systems.

12 (b) Machinery and equipment is "used directly" in generating
13 electricity by fuel cells if it provides any part of the process that
14 captures the energy of the fuel, converts that energy to electricity,
15 and stores, transforms, or transmits that electricity for entry into
16 or operation in parallel with electric transmission and distribution
17 systems.

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

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

36 (5) The exemption provided by this section expires September 30,
37 2017, as it applies to: (a) Machinery and equipment that is used
38 directly in the generation of electricity using solar energy and
39 capable of generating no more than five hundred kilowatts of

1 electricity; or (b) sales of or charges made for labor and services
2 rendered in respect to installing such machinery and equipment.

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

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

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

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

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

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

33 (c) Machinery and equipment is "used directly" in generating
34 electricity with solar energy if it provides any part of the process
35 that captures the energy of the sun, converts that energy to
36 electricity, and stores, transforms, or transmits that electricity
37 for entry into or operation in parallel with electric transmission
38 and distribution systems; and

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

8 (3) The exemption provided by this section for the sales of
9 machinery and equipment that is used directly in the generation of
10 electricity using solar energy, or for sales of or charges made for
11 labor or services rendered in respect to installing such machinery
12 and equipment, expires September 30, 2017.

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

14 **Sec. 14.** RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each
15 amended to read as follows:

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

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

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

38 (2)(a) A person claiming an exemption in the form of a remittance
39 under subsection (1)(c) of this section must pay the tax imposed by

1 RCW 82.12.020 and all applicable local use taxes imposed under the
2 authority of chapters 82.14 and 81.104 RCW. The consumer may then
3 apply to the department for remittance in a form and manner
4 prescribed by the department. A consumer may not apply for a
5 remittance under this section more frequently than once per quarter.
6 The consumer must specify the amount of exempted tax claimed and the
7 qualifying purchases or acquisitions for which the exemption is
8 claimed. The consumer must retain, in adequate detail, records to
9 enable the department to determine whether the consumer is entitled
10 to an exemption under this section, including: Invoices; proof of tax
11 paid; and documents describing the machinery and equipment.

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

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

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

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

22 (a) To machinery and equipment used directly in the generation of
23 electricity using solar energy and capable of generating no more than
24 five hundred kilowatts of electricity, or to sales of or charges made
25 for labor and services rendered in respect to installing such
26 machinery and equipment, when first use within this state of such
27 machinery and equipment, or labor and services, occurs after
28 September 30, 2017; and

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

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

35 **Sec. 15.** RCW 82.12.963 and 2013 2nd sp.s. c 13 s 1603 are each
36 amended to read as follows:

37 (1) The provisions of this chapter do not apply with respect to
38 machinery and equipment used directly in generating not more than ten
39 kilowatts of electricity or producing not more than three million

1 British thermal units per day using solar energy, or to the use of
2 labor and services rendered in respect to installing such machinery
3 and equipment.

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

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

6 (a) To the use of machinery and equipment used directly in the
7 generation of electricity using solar energy, or to the use of labor
8 and services rendered in respect to installing such machinery and
9 equipment, when first use within this state of such machinery and
10 equipment, or labor and services, occurs after September 30, 2017;
11 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 NEW SECTION. Sec. 16. Section 10 of this act constitutes a new
19 chapter in Title 70 RCW.

20 NEW SECTION. Sec. 17. 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.

--- END ---