

ESHB 2248 - S COMM AMD
By Committee on Ways & Means

ADOPTED AND ENGROSSED 3/11/20

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
4 that stimulating local investment in community solar projects
5 continues to be an important part of a state energy strategy by
6 helping to increase energy independence from fossil fuels, promote
7 economic development, hedge against the effects of climate change,
8 and attain environmental benefits. The legislature finds that while
9 previous community solar programs were successful in stimulating
10 these benefits, the programs failed to provide an adequate framework
11 for low-income participation and long-term market certainty. The
12 legislature finds that the vast majority of Washingtonians still do
13 not have access to the benefits of solar energy. The legislature
14 intends to stimulate the deployment of community solar projects for
15 the benefit of all Washingtonians by funding the renewable energy
16 production incentive program for community solar projects and by
17 creating opportunities for broader participation, especially by low-
18 income households and low-income service providers. As of December
19 2019, the state is thirteen megawatts short of the one hundred
20 fifteen megawatts of solar photovoltaic capacity established as a
21 goal under RCW 82.16.155. The legislature therefore intends to
22 provide an incentive sufficient to promote installation of community
23 solar projects through June 30, 2031, at which point the legislature
24 expects to review the effectiveness of enhancing access to community
25 solar projects.

26 (2) The legislature finds that participation of low-income
27 customers in community solar projects is consistent with the goals
28 and intent of the energy assistance provisions of chapter 19.405 RCW,
29 the Washington clean energy transformation act, when this
30 participation achieves a reduction in energy burden for the
31 customers.

1 (3) The legislature also finds that offering energy assistance
2 through renewable energy programs, including community solar, at a
3 discount to low-income customers is consistent with the goal and
4 intent of RCW 80.28.068.

5 **Sec. 2.** RCW 82.16.130 and 2017 3rd sp.s. c 36 s 4 are each
6 amended to read as follows:

7 (1) A light and power business is allowed a credit against taxes
8 due under this chapter in an amount equal to:

9 (a) Incentive payments made in any fiscal year under RCW
10 82.16.120 and 82.16.165; and

11 (b) Any fees a utility is allowed to recover pursuant to RCW
12 82.16.165(5).

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

19 (a) Renewable energy systems, other than community solar
20 projects, that are certified for an incentive payment as of June 30,
21 2020; and

22 (b) Community solar and shared commercial projects that are under
23 precertification status under RCW 82.16.165(7)(b) as of June 30,
24 2020, and that are certified for an incentive payment in accordance
25 with the terms of that precertification by December 31, 2021.

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

30 (4) For any business that has claimed credit for amounts that
31 exceed the correct amount of the incentive payable under RCW
32 82.16.120, the amount of tax against which credit was claimed for the
33 excess payments is immediately due and payable. The department may
34 deduct amounts due from future credits claimed by the business.

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

1 the date the credit was claimed, and accrues until the taxes against
2 which the credit was claimed are repaid.

3 (b) A business is not liable for excess payments made in reliance
4 on amounts reported by the Washington State University extension
5 energy program as due and payable as provided under RCW
6 82.16.165(20), if such amounts are later found to be abnormal or
7 inaccurate due to no fault of the business.

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

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

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

16 (i) Renewable energy systems, other than community solar
17 projects, that are certified for an incentive payment as of June 30,
18 2020; and

19 (ii) Community solar and shared commercial projects that are
20 under precertification status under RCW 82.16.165(7)(b) as of June
21 30, 2020, and that are certified for an incentive payment in
22 accordance with the terms of that precertification by December 31,
23 2021.

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

25 (8) This section expires June 30, 2031.

26 NEW SECTION. Sec. 3. A new section is added to chapter 82.16
27 RCW to read as follows:

28 (1) Beginning July 1, 2020, a light and power business is allowed
29 a credit against taxes due under this chapter in an amount equal to
30 incentive payments made in any fiscal year under section 7 of this
31 act.

32 (2) The credits must be taken in a form and manner as required by
33 the department. The credit taken under this section for the fiscal
34 year may not exceed one and one-half percent of the business's
35 taxable power sales generated in calendar year 2014 and due under RCW
36 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is
37 greater, for incentive payments made for community solar projects
38 that submit an application for precertification under section 7 of
39 this act on or after July 1, 2020, and that are certified for an

1 incentive payment in accordance with the terms of that
2 precertification by June 30, 2031.

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

6 (4) For any business that has claimed credit for amounts that
7 exceed the correct amount of the incentive payable under section 7 of
8 this act, the amount of tax against which credit was claimed for the
9 excess payments is immediately due and payable. The department may
10 deduct amounts from future credits claimed by the business.

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

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

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

25 (6) The right to earn tax credits for incentive payments made
26 under section 7 of this act expires June 30, 2034. Credits may not be
27 claimed under this section after June 30, 2035.

28 (7) This section expires June 30, 2036.

29 **Sec. 4.** RCW 82.16.160 and 2017 3rd sp.s. c 36 s 5 are each
30 amended to read as follows:

31 (1) The definitions in this section apply throughout this section
32 and RCW 82.16.165(~~(, 82.16.170,)~~) and 82.16.175 unless the context
33 clearly requires otherwise.

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

37 ~~((2))~~ (b) "Certification" means the authorization issued by the
38 Washington State University extension energy program establishing a

1 person's eligibility to receive annual incentive payments from the
2 person's utility for the program term.

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

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

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

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

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

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

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

26 ~~((10))~~ (j) "Program term" means: ~~((a))~~ (i) For community
27 solar projects that are certified under RCW 82.16.165, eight years or
28 until cumulative incentive payments for electricity produced by the
29 project reach fifty percent of the total system price, including
30 applicable sales tax, whichever occurs first; and ~~((b))~~ (ii) for
31 other renewable energy systems, including shared commercial solar
32 projects, eight years or until cumulative incentive payments for
33 electricity produced by a system reach fifty percent of the total
34 system price, including applicable sales tax, whichever occurs first.

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

39 ~~((12))~~ (l) "Residential-scale system" means a renewable energy
40 system or systems located at a single situs with combined nameplate

1 capacity of twelve kilowatts or less that meets the applicable system
2 eligibility requirements established in RCW 82.16.165.

3 ~~((13))~~ (m) "Shared commercial solar project" means a solar
4 energy system, owned or administered by an electric utility, with a
5 combined nameplate capacity of greater than one megawatt and not more
6 than five megawatts and meets the applicable eligibility requirements
7 established in RCW 82.16.165 and 82.16.175.

8 (2) This section expires June 30, 2031.

9 **Sec. 5.** RCW 82.16.165 and 2017 3rd sp.s. c 36 s 6 are each
10 amended to read as follows:

11 (1) Beginning July 1, 2017, and through June 30, 2020, the
12 following persons may submit a one-time application to the Washington
13 State University extension energy program to receive a certification
14 authorizing the utility serving the situs of a renewable energy
15 system in the state of Washington to remit an annual production
16 incentive for each kilowatt-hour of alternating current electricity
17 generated by the renewable energy system:

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

20 (b) An administrator of a community solar project meeting the
21 eligibility requirements outlined in RCW 82.16.170(2) and applies for
22 certification on behalf of each of the project participants; or

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

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

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

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

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

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

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

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

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

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

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

1 Washington State University extension energy program before the
2 effective date of the notice of termination.

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

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

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

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

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

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

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

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

1 (7) (a) To obtain certification for the incentive payment provided
2 under subsection (1) of this section by June 30, 2020, for renewable
3 energy systems other than community solar projects, or by December
4 31, 2021, for community solar and shared commercial projects, a
5 person must submit to the Washington State University extension
6 energy program an application, including:

7 (i) A signed statement that the applicant has not previously
8 received a notice of eligibility from the department under RCW
9 82.16.120 entitling the applicant to receive annual incentive
10 payments for electricity generated by the renewable energy system at
11 the same meter location;

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

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

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

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

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

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

1 to be guaranteed an incentive payment under subsection (1) of this
2 section. Community solar and shared commercial projects that are
3 under precertification status under this subsection (7) as of June
4 30, 2020, may not apply for precertification for the incentive
5 payment provided under section 7 of this act for that same project;

6 (ii) A project applicant of a community solar project or shared
7 commercial solar project must complete an application for
8 certification with the Washington State University extension energy
9 program within less than (~~one year~~) two years to retain the
10 precertification status described in this subsection. If a community
11 solar or shared commercial project application is in precertification
12 status as of June 30, 2020, the project applicant must continue in
13 that status until either it is certified by the Washington State
14 University extension energy program or its precertification expires;
15 and

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

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

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

33 (10) Certification is valid for the program term and entitles the
34 applicant or, in the case of a community solar project or shared
35 commercial solar project, the participant, to receive incentive
36 payments for electricity generated from the date the renewable energy
37 system commences operation, or the date the system is certified,
38 whichever date is later. For purposes of this subsection, the
39 Washington State University extension energy program must define when
40 a renewable energy system commences operation and provide notice of

1 such date to the recipient and the utility serving the situs of the
2 system. Certification may not be retroactively changed except to
3 correct later discovered errors that were made during the original
4 application or certification process.

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

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

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

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

20 (12) The Washington State University extension energy program
21 must determine the total incentive rate for ~~((a new renewable energy
22 system certification by adding to the base rate any applicable made-
23 in-Washington bonus rate))~~ renewable energy systems, other than a
24 community solar project, certified through June 30, 2020, and for
25 community solar and shared commercial projects precertified as of
26 June 30, 2020, and certified through December 31, 2021, as provided
27 in this subsection. A made-in-Washington bonus rate is provided for a
28 renewable energy system or a community solar project certified
29 through June 30, 2019, with solar modules made in Washington or with
30 a wind turbine or tower that is made in Washington. Both the base
31 rates and bonus rate vary, depending on the fiscal year in which the
32 system is certified and the type of renewable energy system being
33 certified, as provided in the following table:

34 Fiscal year	Base rate -	Base rate -	Base rate -	Base rate - shared	Made in
35 of system	residential-scale	commercial-scale	community solar	commercial solar	Washington
36 certification					bonus
37 2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
38 2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04

1	2020	\$0.12	\$0.02	\$0.12	\$0.02	(\$0.03)
2	2021	(\$0.10)	(\$0.02)	\$0.10	(\$0.02)	(\$0.02)

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

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

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

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

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

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

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

1 disclosed, along with an explanation of the limitations on incentive
2 payments contained in this subsection (15), in the contractual
3 agreement with the shared commercial solar project participants.

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

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

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

30 (19) Annually, the utility must report electronically to the
31 Washington State University extension energy program the amount of
32 gross kilowatt-hours generated by each renewable energy system since
33 the prior annual report. For the purposes of this section, to report
34 electronically means to submit statistical or factual information in
35 alphanumeric form through a web site established by the Washington
36 State University extension energy program or in a list, table,
37 spreadsheet, or other nonnarrative format that can be digitally
38 transmitted or processed. The utility may instead opt to report by
39 mail or require program participants to report individually, but if
40 the utility exercises one or more of these options it must negotiate

1 with the Washington State University extension energy program the
2 fee-for-service arrangement described in subsection (5)(b) of this
3 section.

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

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

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

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

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

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

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

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

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

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

22 (26) No certification may be issued under this section by the
23 Washington State University extension energy program for any
24 renewable energy system, other than a community solar project, after
25 June 30, ((2021)) 2020. No certification may be issued under this
26 section for any community solar or shared commercial project after
27 December 31, 2021.

28 (27) The Washington State University extension energy program
29 must collect a one-time fee for applications submitted under
30 subsection (1) of this section of one hundred twenty-five dollars per
31 applicant. The Washington State University extension energy program
32 must deposit all revenue generated by this fee into the state general
33 fund. The Washington State University extension energy program must
34 administer and budget for the program established in RCW 82.16.120,
35 this section, and RCW 82.16.170 in a manner that ensures its
36 administrative costs through June 30, 2022, are completely met by the
37 revenues from this fee. If the Washington State University extension
38 energy program determines that the fee authorized in this subsection
39 is insufficient to cover the administrative costs through June 30,
40 2022, the Washington State University extension energy program must

1 report to the legislature on costs incurred and fees collected and
2 demonstrate why a different fee amount or funding mechanism should be
3 authorized.

4 (28) The Washington State University extension energy program
5 may, through a public process, develop any program requirements,
6 policies, and processes necessary for the administration or
7 implementation of this section, RCW 82.16.120, 82.16.155, and
8 82.16.170. The department is authorized, in consultation with the
9 Washington State University extension energy program, to adopt any
10 rules necessary for administration or implementation of the program
11 established under this section and RCW 82.16.170.

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

16 (30)(a) By November 1, 2019, and in compliance with RCW
17 43.01.036, the Washington State University extension energy program
18 must submit a report to the legislature that includes the following:

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

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

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

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

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

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

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

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

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

7 (b) By December 31, 2019, the legislature must review the report
8 submitted under (a) of this subsection and determine whether the
9 credit limit established under RCW 82.16.130(2) should be increased
10 to two percent of a light and power business's taxable power sales
11 generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or
12 two hundred fifty thousand dollars, whichever is greater, in order to
13 achieve the legislative intent under section 1, chapter 36, Laws of
14 2017 3rd sp. sess.

15 (31) This section expires June 30, 2031.

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

18 (1) The definitions in this section apply throughout this section
19 and section 7 of this act unless the context clearly requires
20 otherwise.

21 (a)(i) "Administrator" means the utility, nonprofit, tribal
22 housing authority as provided in (a)(ii) of this subsection, or other
23 local housing authority that organizes and administers a community
24 solar project as provided in section 7 of this act and RCW 82.16.170.

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

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

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

- 1 (i) Has an alternating current nameplate capacity that is greater
2 than twelve kilowatts but no greater than one hundred ninety-nine
3 kilowatts;
- 4 (ii) Has, at minimum, either two subscribers or one low-income
5 service provider subscriber; and
- 6 (iii) Meets the applicable eligibility requirements in section 7
7 of this act and RCW 82.16.170.
- 8 (d) "Consumer-owned utility" has the same meaning as in RCW
9 19.280.020.
- 10 (e) "Electric utility" or "utility" means a consumer-owned
11 utility or investor-owned utility as those terms are defined in RCW
12 19.280.020.
- 13 (f) "Energy assistance" has the same meaning as provided in RCW
14 19.405.020.
- 15 (g) "Energy burden" has the same meaning as provided in RCW
16 19.405.020.
- 17 (h) "Governing body" has the same meaning as provided in RCW
18 19.280.020.
- 19 (i) "Low-income" has the same meaning as provided in RCW
20 19.405.020.
- 21 (j) "Low-income service provider" includes, but is not limited
22 to, a local community action agency or local community service agency
23 designated by the department of commerce under chapter 43.63A RCW,
24 local housing authority, tribal housing authority, low-income tribal
25 housing program, affordable housing provider, food bank, or other
26 nonprofit organization that provides services to low-income
27 households.
- 28 (k) "Multifamily residential building" means a building
29 containing more than two sleeping units or dwelling units where
30 occupants are primarily permanent in nature.
- 31 (l) "Person" means an individual, firm, partnership, corporation,
32 company, association, agency, or any other legal entity.
- 33 (m) "Public agency" means any political subdivision of the state
34 including, but not limited to, municipal and county governments,
35 special purpose districts, and local housing authorities, but does
36 not include state agencies.
- 37 (n)(i) Except as otherwise provided in (n)(ii) of this
38 subsection, "qualifying subscriber" means a low-income subscriber,
39 low-income service provider subscriber, tribal agency subscriber, or
40 public agency subscriber.

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

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

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

12 (2) This section expires June 30, 2036.

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

15 (1) Beginning July 1, 2020, through June 30, 2031, an
16 administrator of a community solar project meeting the eligibility
17 requirements described in this section and RCW 82.16.170(3) may
18 submit an application to the Washington State University extension
19 energy program to receive a precertification for a community solar
20 project. Projects with precertification applications approved by the
21 Washington State University extension energy program have two years
22 to complete their projects and apply for certification. By certifying
23 qualified projects pursuant to the requirements of this section and
24 RCW 82.16.170(3), the Washington State University extension energy
25 program authorizes the utility serving the site of a community solar
26 project in the state of Washington to remit a one-time low-income
27 community solar incentive payment to the community solar project
28 administrator, who accepts the payment on behalf of, and for the
29 purpose of providing direct benefits to, the project's qualifying
30 subscribers.

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

34 (a) An amount, not to exceed twenty thousand dollars per
35 community solar project, equal to the community solar project's
36 administrative costs related to the administrative start-up of the
37 project for qualifying subscribers; and

1 (b) An amount that does not exceed one hundred percent of the
2 proportional cost of the share of the community solar project that
3 provides direct benefits to qualifying subscribers.

4 (3) No new certification may be issued under this section to an
5 applicant who receives an annual incentive payment for a community
6 solar project that was certified under RCW 82.16.120 or 82.16.165, or
7 for a community solar project served by a utility that has elected
8 not to participate in the incentive program provided in this section.

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

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

17 (i) For a community solar project that has an alternating current
18 nameplate capacity greater than twelve kilowatts but no greater than
19 one hundred kilowatts, and that is connected behind the electric
20 service meter, compensation must be determined in accordance with RCW
21 80.60.020 and provided to the metered customer receiving service at
22 the situs of the meter.

23 (ii) For all other community solar projects, compensation must be
24 determined at a value set by the participating utility and paid to
25 the administrator or subscribers according to the agreement between
26 the project and the utility.

27 (iii) An administrator may deduct ongoing administrative costs
28 from compensation provided from power generation, provided those
29 costs are identified in the subscription agreement.

30 (b) If the utility provides compensation for the generation of
31 electricity to the administrator, the administrator of a community
32 solar project must provide that compensation to the project
33 subscribers. For ten years after certification, and by March 1st of
34 each year following certification, the provider of compensation for
35 the generation of electricity to the subscriber, whether the utility
36 or the administrator, but not both, must provide the Washington State
37 University extension energy program with signed statements of the
38 following for the preceding year:

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

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

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

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

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

6 (a) A utility electing to participate in the incentive program
7 must notify the Washington State University extension energy program
8 of such election in writing by January 1st of each year.

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

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

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

26 (7) (a) The Washington State University extension energy program
27 may issue certifications authorizing incentive payments under this
28 section in a total statewide amount not to exceed twenty million
29 dollars, and subject to the following biennial dollar limits:

30 (i) For fiscal year 2021, three hundred thousand dollars; and

31 (ii) For each biennium beginning on or after July 1, 2021, five
32 million dollars.

33 (b) The Washington State University extension energy program will
34 attempt to equitably distribute incentive funds throughout the state.
35 Considerations for equitable fund distribution, based on
36 precertification applications received from administrators served by
37 utilities voluntarily participating in the program, may include
38 measures to reserve or allocate available funds based on the
39 proportion of public utility taxes collected, the proportion of the
40 state's low-income customers served by each utility based on low-

1 income home energy assistance program data at the department of
2 commerce, and measures to achieve an equitable geographic
3 distribution of community solar installations and a diversity of
4 administrative models for community solar projects. If an equitable
5 distribution of funds is not feasible due to a lack of
6 precertification applications, the Washington State University
7 extension energy program may allocate funds based on (a) of this
8 subsection on a first-come, first-served basis.

9 (c) The Washington State University extension energy program
10 shall regularly publish and update guidelines for how it will manage
11 the allocation of available funding, based on the evaluation of
12 applications and the factors specified in (b) of this subsection.

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

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

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

27 (b) The administrator of a community solar project must complete
28 an application for certification in accordance with the requirements
29 of subsection (9) of this section within less than two years of being
30 approved for precertification status. The administrator must submit a
31 project update to the Washington State University extension energy
32 program after one year in precertification status.

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

37 (a) A signed statement that the applicant has not previously
38 received a notice of eligibility from the department under RCW
39 82.16.120 or the Washington State University extension energy program
40 under RCW 82.16.165 entitling the applicant to receive annual

1 incentive payments for electricity generated by the community solar
2 project at the same meter location;

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

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

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

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

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

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

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

33 (h) Confirmation of the number of qualifying subscribers; and

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

37 (10) 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 (11)(a) The Washington State University extension energy program
2 must review each project for which an application for certification
3 is submitted in accordance with subsection (8) of this section for
4 reasonable cost and financial structure, with a targeted cost of
5 three dollars per watt of installed system capacity that is
6 designated for a community solar project's qualifying subscribers.
7 The Washington State University extension energy program may approve
8 an application for a project that costs more or less than three
9 dollars per watt of installed system capacity based on a review of
10 the project, documents submitted by the project applicant, and
11 available data. Project cost evaluations must exclude costs
12 associated with energy storage systems. Applicants may petition the
13 Washington State University extension energy program to approve a
14 higher cost per watt for unusual circumstances, except that such
15 costs may not include costs associated with energy storage systems.

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

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

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

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

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

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

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

5 (b) In the event that a qualifying subscriber terminates their
6 participation in a community solar project, the system certification
7 follows the project and participation must be transferred to a new
8 qualifying subscriber.

9 (14) Beginning January 1, 2021, the Washington State University
10 extension energy program must post on its web site and update at
11 least monthly a report, by utility, of:

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

14 (b) An estimate of the amount of credit that has not yet been
15 allocated for low-income community solar incentive payments under
16 each utility's credit limit and that remains available for new
17 community solar project certifications in the state.

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

22 (16) The nonpower attributes of the community solar project
23 belong to the individual subscribers, and must be kept, sold, or
24 transferred at a subscriber's discretion, unless a contract between
25 the subscriber and administrator clearly specifies that the
26 attributes will be transferred to the administrator. If the nonpower
27 attributes are sold or transferred, the utility to which the project
28 is interconnected has the first right of refusal to procure the
29 nonpower attributes at their fair market value.

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

34 (18) The Washington State University extension energy program
35 must collect a one-time fee for precertification applications
36 submitted under this section of five hundred dollars per applicant.
37 The Washington State University extension energy program must deposit
38 all revenue generated by this fee into the state general fund.

39 (19) The Washington State University extension energy program
40 may, through a public process, develop program requirements,

1 policies, and processes necessary for the administration or
2 implementation of this section.

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

7 (21) No certification may be issued under this section by the
8 Washington State University extension energy program for a community
9 solar project after June 30, 2033.

10 (22) This section expires June 30, 2036.

11 **Sec. 8.** RCW 82.16.170 and 2017 3rd sp.s. c 36 s 7 are each
12 amended to read as follows:

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

17 (2) ~~((A))~~ In order to receive certification for the incentive
18 payment provided under RCW 82.16.165(1) by December 31, 2021, a
19 community solar project must have a direct current nameplate capacity
20 that is no more than one thousand kilowatts and must have at least
21 ten participants or one participant for every ten kilowatts of direct
22 current nameplate capacity, whichever is greater. A community solar
23 project that has a direct current nameplate capacity greater than
24 five hundred kilowatts must be subject to a standard interconnection
25 agreement with the utility serving the situs of the community solar
26 project. Except for community solar projects authorized under
27 subsection ~~((9))~~ (10) of this section, each participant must be a
28 customer of the utility providing service at the situs of the
29 community solar project.

30 (3) In order to receive certification for the incentive payment
31 provided under section 7 of this act beginning July 1, 2020, a
32 community solar project must meet the following requirements:

33 (a) The administrator of the community solar project must be a
34 utility, nonprofit, tribal housing authority that administers a
35 community solar project on tribal lands or lands held in trust for a
36 federally recognized tribe by the United States for subscribers who
37 are tribal members, or other local housing authority. The
38 administrator of the community solar project must apply for

1 precertification under section 7 of this act on or after July 1,
2 2020;

3 (b) The community solar project must have an alternating current
4 nameplate capacity that is greater than twelve kilowatts but no
5 greater than one hundred ninety-nine kilowatts, and must have at
6 least two subscribers or one low-income service provider subscriber;

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

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

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

19 (f) In the event that a low-income subscriber in a community
20 solar project certified under section 7 of this act moves from the
21 household premises of the subscriber's current subscription to
22 another, the subscriber may continue the subscription, provided that
23 the new household premises is served by the utility providing service
24 at the site of the community solar project. In the event that a
25 subscriber is no longer served by that utility or the subscriber
26 terminates participation in a community solar project certified under
27 section 7 of this act, the certification follows the system and
28 participation may be transferred by the administrator to a new
29 qualifying subscriber;

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

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

38 (4) The administrator of a community solar project must
39 administer the project in a transparent manner that allows for fair

1 and nondiscriminatory opportunity for participation by utility
2 customers.

3 ((+4)) (5) The administrator of a community solar project may
4 establish a reasonable fee to cover costs incurred in organizing and
5 administering the community solar project. Project participants,
6 prior to making the commitment to participate in the project, must be
7 given clear and conspicuous notice of the portion of the incentive
8 payment that will be used for this purpose.

9 ((+5)) (6) The administrator of a community solar project must
10 maintain and update annually through June 30, 2030, the following
11 information for each project it operates or administers:

- 12 (a) Ownership information;
- 13 (b) Contact information for technical management questions;
- 14 (c) Business address;
- 15 (d) Project design details, including project location, output
16 capacity, equipment list, and interconnection information; and
- 17 (e) Subscription information, including rates, fees, terms, and
18 conditions.

19 ((+6)) (7) The administrator of a community solar project must
20 provide the information required in subsection ((+5)) (6) of this
21 section to the Washington State University extension energy program
22 at the time it submits the applications allowed under RCW
23 82.16.165(1) and section 7 of this act.

24 ((+7)) (8) The administrator of a community solar project must
25 provide each project participant with a disclosure form containing
26 all material terms and conditions of participation in the project,
27 including but not limited to the following:

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

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

35 (c) All recurring and nonrecurring charges;

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

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

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

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

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

4 ~~((8))~~ (9) A utility may not adopt rates, terms, conditions, or
5 standards that unduly or unreasonably discriminate between utility-
6 administered community solar projects and those administered by
7 another entity.

8 ~~((9))~~ (10) A public utility district that is engaged in
9 distributing electricity to more than one retail electric customer in
10 the state and a joint operating agency organized under chapter 43.52
11 RCW on or before January 1, 2017, may enter into an agreement with
12 each other to construct and own a community solar project that is
13 located on property owned by a joint operating agency or on property
14 that receives electric service from a participating public utility
15 district. Each participant of a community solar project under this
16 subsection must be a customer of at least one of the public utility
17 districts that is a party to the agreement with a joint operating
18 agency to construct and own a community solar project.

19 ~~((10))~~ (11) The Washington utilities and transportation
20 commission must publish, without disclosing proprietary information,
21 a list of the following:

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

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

27 ~~((11))~~ (12) If a consumer-owned utility opts to provide a
28 community solar program or contracts with a nonutility administrator
29 to offer a community solar program, the governing body of the
30 consumer-owned utility must publish, without disclosing proprietary
31 information, a list of the nonutility administrators contracted by
32 the utility as part of its community solar program.

33 ~~((12))~~ (13) Except for parties engaged in actions and
34 transactions regulated under laws administered by other authorities
35 and exempted under RCW 19.86.170, a violation of this section
36 constitutes an unfair or deceptive act in trade or commerce in
37 violation of chapter 19.86 RCW, the consumer protection act. Acts in
38 violation of chapter 36, Laws of 2017 3rd sp. sess. are not
39 reasonable in relation to the development and preservation of
40 business, and constitute matters vitally affecting the public

1 interest for the purpose of applying the consumer protection act,
2 chapter 19.86 RCW.

3 ~~((13))~~ (14) Nothing in this section may be construed as
4 intending to preclude persons from investing in or possessing an
5 ownership interest in a community solar project, or from applying for
6 and receiving federal investment tax credits.

7 (15) This section expires June 30, 2036.

8 **Sec. 9.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to
9 read as follows:

10 (1) The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

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

20 ~~((2)(a))~~ (b)(i) "Community solar project" means:

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

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

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

1 ~~((b))~~ (ii) For the purposes of "community solar project" as
2 defined in ~~((a))~~ (b)(i) of this subsection:

3 ~~((i))~~ (A) "Company" means an entity that is:

4 ~~((A))~~ (I) A limited liability company; ~~((II)A)~~ a cooperative
5 formed under chapter 23.86 RCW; or ~~((III)A)~~ a mutual corporation
6 or association formed under chapter 24.06 RCW; and

7 ~~((B))~~ (II) Not a "utility" as defined in this subsection
8 ~~((2)(b))~~ (1)(b)(ii); and

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

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

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

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

29 ~~((5))~~ (e) "Local governmental entity" means any unit of local
30 government of this state including, but not limited to, counties,
31 cities, towns, municipal corporations, quasi-municipal corporations,
32 special purpose districts, and school districts.

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

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

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

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

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

6 ~~((11))~~ (k) "Stirling converter" means a device that produces
7 electricity by converting heat from a solar source utilizing a
8 stirling engine.

9 (2) This section expires June 30, 2031.

10 **Sec. 10.** RCW 82.16.120 and 2017 3rd sp.s. c 36 s 3 are each
11 amended to read as follows:

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

19 (b) In the case of a community solar project as defined in RCW
20 82.16.110~~((2)(a)(i))~~ (1)(b)(i)(A), the administrator must apply for
21 the investment cost recovery incentive on behalf of each of the other
22 owners.

23 (c) In the case of a community solar project as defined in RCW
24 82.16.110~~((2)(a)(iii))~~ (1)(b)(i)(C), the company owning the
25 community solar project must apply for the investment cost recovery
26 incentive on behalf of each member of the company.

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

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

36 (c) The certification must include:

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

1 (A) If the applicant is an administrator of a community solar
2 project as defined in RCW 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), the
3 certification must also include the name and address of each of the
4 owners of the community solar project.

5 (B) If the applicant is a company that owns a community solar
6 project as defined in RCW 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the
7 certification must also include the name and address of each member
8 of the company;

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (A) If the applicant is an administrator of a community solar
4 project as defined in RCW 82.16.110(~~((2)(a)(ii))~~) (1)(b)(i)(A), the
5 application must also include the name and address of each of the
6 owners of the community solar project.

7 (B) If the applicant is a company that owns a community solar
8 project as defined in RCW 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the
9 application must also include the name and address of each member of
10 the company;

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

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

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

17 (b) Within sixty days of receipt of the incentive certification
18 the light and power business serving the situs of the system must
19 notify the applicant in writing whether the incentive payment will be
20 authorized or denied. The business may consult with the climate and
21 rural energy development center to determine eligibility for the
22 incentive payment. Incentive certifications and the information
23 contained therein are not confidential tax information under RCW
24 82.32.330 and are subject to disclosure.

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

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

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

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

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

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

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

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

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

32 (c) Where the applicant is an administrator of a community solar
33 project as defined in RCW 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), each
34 owner is eligible for an incentive but only in proportion to the
35 ownership share of the project, up to five thousand dollars per year.

36 (d) Where the applicant is a company owning a community solar
37 project that has applied for an investment cost recovery incentive on
38 behalf of its members, each member of the company is eligible for an
39 incentive that would otherwise belong to the company but only in
40 proportion to each ownership share of the company, up to five

1 thousand dollars per year. The company itself is not eligible for
2 incentives under this section.

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

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

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

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

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

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

32 (11) In order to continue to receive the incentive payment
33 allowed under subsection (4) of this section, a person or community
34 solar project administrator who has, by September 30, 2017, submitted
35 a complete certification to the department under subsection (2) of
36 this section must apply to the Washington State University extension
37 energy program by April 30, 2018, for a certification authorizing the
38 utility serving the situs of the renewable energy system to annually
39 remit the incentive payment allowed under subsection (4) of this

1 section for each kilowatt-hour generated by the renewable energy
2 system through June 30, 2020.

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

12 (b) Beginning July 1, 2018, the Washington State University
13 extension energy program must, in a form and manner that is
14 consistent with the roles and processes established under RCW
15 82.16.165 (19) and (20), calculate for the year and provide to the
16 utility the amount of the incentive payment due to each participant
17 under subsection (11) of this section.

18 (13) This section expires June 30, 2031.

19 **Sec. 11.** RCW 82.16.150 and 2010 c 202 s 5 are each amended to
20 read as follows:

21 (1) Owners of a community solar project as defined in RCW
22 82.16.110(~~((2)(a)(i) and (iii))~~) (1) (b) (i) (A) and (C) must agree to
23 hold harmless the light and power business serving the situs of the
24 system, including any employee, for the good faith reliance on the
25 information contained in an application or certification submitted by
26 an administrator or company. In addition, the light and power
27 business and any employee is immune from civil liability for the good
28 faith reliance on any misstatement that may be made in such
29 application or certification. Should a light and power business or
30 employee prevail upon the defense provided in this section, it is
31 entitled to recover expenses and reasonable attorneys' fees incurred
32 in establishing the defense.

33 (2) This section expires June 30, 2031.

34 **Sec. 12.** RCW 82.16.155 and 2017 3rd sp.s. c 36 s 2 are each
35 amended to read as follows:

36 (1) This section is the tax preference performance statement for
37 the tax preference and incentives created under (~~(RCW 82.16.130 and)~~)
38 sections 4 and 6, chapter 36, Laws of 2017 3rd sp. sess. This

1 performance statement is only intended to be used for subsequent
2 evaluation of the tax preference and incentives. It is not intended
3 to create a private right of action by any party or be used to
4 determine eligibility for preferential tax treatment.

5 (2) The legislature categorizes the tax preference created under
6 (~~RCW 82.16.130~~) section 4, chapter 36, Laws of 2017 3rd sp. sess.
7 and incentive payments authorized in section 6, chapter 36, Laws of
8 2017 3rd sp. sess. as intended to:

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

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

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

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

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

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

21 (4) It is the legislature's intent to provide the incentives in
22 sections 4 and 6, chapter 36, Laws of 2017 3rd sp. sess. (~~and RCW~~
23 ~~82.16.130~~) in order to ensure the sustainable job growth and
24 vitality of the state's renewable energy sector. The purpose of the
25 incentive is to reduce the costs associated with installing and
26 operating solar energy systems by persons or entities receiving the
27 incentive.

28 (5) As part of its 2021 tax preference reviews, the joint
29 legislative audit and review committee must review the tax
30 preferences and incentives in sections 4 and 6, chapter 36, Laws of
31 2017 3rd sp. sess. (~~and RCW 82.16.130.~~) The legislature intends for
32 the legislative auditor to determine that the incentive has achieved
33 its desired outcomes if the following objectives are achieved:

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

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

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

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

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

12 (7) The Washington State University extension energy program must
13 collect, through the application process, data from persons claiming
14 the tax credit under ((RCW 82.16.130)) section 4, chapter 36, Laws of
15 2017 3rd sp. sess. and persons receiving the incentive payments
16 created in ((RCW 82.16.165)) section 6, chapter 36, Laws of 2017 3rd
17 sp. sess., as necessary, and may collect data from other interested
18 persons as necessary to report on the performance of chapter 36, Laws
19 of 2017 3rd sp. sess.

20 (8) All recipients of tax credits or incentive payments awarded
21 under this chapter must provide data necessary to evaluate the tax
22 preference performance objectives in this section as requested by the
23 Washington State University extension energy program or the joint
24 legislative audit and review committee. Failure to comply may result
25 in the loss of a tax credit award or incentive payment in the
26 following year.

27 (9) This section expires June 30, 2031.

28 NEW SECTION. Sec. 13. The provisions of RCW 82.32.805 and
29 82.32.808 do not apply to this act.

30 NEW SECTION. Sec. 14. This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of
32 the state government and its existing public institutions, and takes
33 effect immediately."

ADOPTED 3/11/20

1 On page 1, line 2 of the title, after "projects;" strike the
2 remainder of the title and insert "amending RCW 82.16.130, 82.16.160,
3 82.16.165, 82.16.170, 82.16.110, 82.16.120, 82.16.150, and 82.16.155;
4 adding new sections to chapter 82.16 RCW; creating new sections;
5 providing expiration dates; and declaring an emergency."

--- **END** ---