
SUBSTITUTE HOUSE BILL 2248

State of Washington

66th Legislature

2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Doglio, DeBolt, Fey, Lekanoff, Fitzgibbon, Shewmake, Leavitt, Ramel, Ryu, Tarleton, Appleton, Ramos, Slatter, Ormsby, Macri, Wylie, Kloba, Goodman, Peterson, Hudgins, Pollet, and Tharinger)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to expanding equitable access to the benefits of
2 renewable energy through community solar projects; amending RCW
3 82.16.130, 82.16.160, 82.16.165, 82.16.170, 80.60.005, 82.16.110,
4 82.16.120, 82.16.150, and 82.16.155; adding new sections to chapter
5 82.16 RCW; creating new sections; providing expiration dates; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
9 that stimulating local investment in community solar projects
10 continues to be an important part of a state energy strategy by
11 helping to increase energy independence from fossil fuels, promote
12 economic development, hedge against the effects of climate change,
13 and attain environmental benefits. The legislature finds that while
14 previous community solar programs were successful in stimulating
15 these benefits, the programs failed to provide an adequate framework
16 for low-income participation and long-term market certainty. The
17 legislature finds that the vast majority of Washingtonians still do
18 not have access to the benefits of solar energy. The legislature
19 intends to stimulate the deployment of community solar projects for
20 the benefit of all Washingtonians by funding the renewable energy
21 production incentive program for community solar projects and by

1 creating opportunities for broader participation, especially by low-
2 income households and low-income service providers. As of December
3 2019, the state is thirteen megawatts short of the one hundred
4 fifteen megawatts of solar photovoltaic capacity established as a
5 goal under RCW 82.16.155. The legislature therefore intends to
6 provide an incentive sufficient to promote installation of community
7 solar projects through June 30, 2026, at which point the legislature
8 expects to review the effectiveness of enhancing access to community
9 solar projects. The legislature finds that expansion of electric
10 meter aggregation for net metering systems is a path beyond the
11 renewable energy production incentive program to provide and sustain
12 access for community solar projects.

13 (2) The legislature also finds that providing access for low-
14 income households and low-income service providers to community solar
15 projects can reduce the energy burden of low-income households,
16 consistent with the goals and intent of chapter 19.405 RCW, the
17 Washington clean energy transformation act.

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

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

22 (a) Incentive payments made in any fiscal year under RCW
23 82.16.120 and 82.16.165; and

24 (b) Any fees a utility is allowed to recover pursuant to RCW
25 82.16.165(5).

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

32 (a) Renewable energy systems, other than community solar
33 projects, that are certified for an incentive payment as of June 30,
34 2020; and

35 (b) Community solar projects that are under precertification
36 status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are
37 certified for an incentive payment in accordance with the terms of
38 that precertification by June 30, 2021.

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

5 (4) For any business that has claimed credit for amounts that
6 exceed the correct amount of the incentive payable under RCW
7 82.16.120, the amount of tax against which credit was claimed for the
8 excess payments is immediately due and payable. The department may
9 deduct amounts due from future credits claimed by the business.

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

16 (b) A business is not liable for excess payments made in reliance
17 on amounts reported by the Washington State University extension
18 energy program as due and payable as provided under RCW
19 82.16.165(20), if such amounts are later found to be abnormal or
20 inaccurate due to no fault of the business.

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

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

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

29 (i) Renewable energy systems, other than community solar
30 projects, that are certified for an incentive payment as of June 30,
31 2020; and

32 (ii) Community solar projects that are under precertification
33 status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are
34 certified for an incentive payment in accordance with the terms of
35 that precertification by June 30, 2021.

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

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

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

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

5 (2) The credits must be taken in a form and manner as required by
6 the department. The credit taken under this section for the fiscal
7 year may not exceed one and one-half percent of the business's
8 taxable power sales generated in calendar year 2014 and due under RCW
9 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is
10 greater, for incentive payments made for community solar projects
11 that submit an application for precertification under section 7 of
12 this act on or after July 1, 2020, and that are certified for an
13 incentive payment in accordance with the terms of that
14 precertification by June 30, 2026.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 ~~((10))~~ (j) "Program term" means: ~~((a))~~ (i) For community
38 solar projects that are certified under RCW 82.16.165, eight years or
39 until cumulative incentive payments for electricity produced by the

1 project reach fifty percent of the total system price, including
2 applicable sales tax, whichever occurs first; and ~~((b))~~ (ii) for
3 other renewable energy systems, including shared commercial solar
4 projects, eight years or until cumulative incentive payments for
5 electricity produced by a system reach fifty percent of the total
6 system price, including applicable sales tax, whichever occurs first.

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

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

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

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

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

23 (1) Beginning July 1, 2017, and through June 30, 2020, the
24 following persons may submit a one-time application to the Washington
25 State University extension energy program to receive a certification
26 authorizing the utility serving the situs of a renewable energy
27 system in the state of Washington to remit an annual production
28 incentive for each kilowatt-hour of alternating current electricity
29 generated by the renewable energy system:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (7) (a) To obtain certification for the incentive payment provided
13 under subsection (1) of this section by June 30, 2020, for renewable
14 energy systems other than community solar projects, or by June 30,
15 2021, for community solar projects, a person must submit to the
16 Washington State University extension energy program an application,
17 including:

18 (i) A signed statement that the applicant has not previously
19 received a notice of eligibility from the department under RCW
20 82.16.120 entitling the applicant to receive annual incentive
21 payments for electricity generated by the renewable energy system at
22 the same meter location;

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

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

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

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

39 (B) The Washington State University extension energy program may
40 waive the requirement in (a) (v) (A) of this subsection (7), accepting

1 an application and granting provisional certification prior to proof
2 of final electrical inspection. Provisional certification expires one
3 hundred eighty days after issuance, unless the applicant submits
4 proof of the final electrical inspection from the applicable local
5 jurisdiction or the Washington State University extension energy
6 program extends the certification, for a term or terms of thirty
7 days, due to extenuating circumstances; and

8 (b) (i) Prior to obtaining certification under this subsection, a
9 community solar project or shared commercial solar project must apply
10 for precertification against the remaining funds available for
11 incentive payments under subsection (13) (d) of this section in order
12 to be guaranteed an incentive payment under subsection (1) of this
13 section. Community solar projects that are under precertification
14 status under this subsection (7) as of June 30, 2020, may not apply
15 for precertification for the incentive payment provided under section
16 7 of this act for that same project;

17 (ii) A project applicant of a community solar project or shared
18 commercial solar project must complete an application for
19 certification with the Washington State University extension energy
20 program within less than one year to retain the precertification
21 status described in this subsection. If a community solar project
22 application is in precertification status as of June 30, 2020, the
23 project applicant must continue in that status until either it is
24 certified by the Washington State University extension energy program
25 or its precertification expires; and

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

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

33 (9) Within thirty days of receipt of ((the)) an application for
34 certification, the Washington State University extension energy
35 program must notify the applicant and, except when a utility is the
36 applicant, the utility serving the situs of the renewable energy
37 system, by mail or electronically, whether certification has been
38 granted. The certification notice must state the rate to be paid per
39 kilowatt-hour of electricity generated by the renewable energy
40 system, as provided in subsection (12) of this section, subject to

1 any applicable cap on total annual payment provided in subsection (6)
2 of this section.

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

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

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

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

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

30 (12) The Washington State University extension energy program
31 must determine the total incentive rate for ~~((a new renewable energy
32 system certification by adding to the base rate any applicable made-
33 in-Washington bonus rate))~~ renewable energy systems, other than a
34 community solar project, certified through June 30, 2020, and for
35 community solar projects precertified as of June 30, 2020, and
36 certified through June 30, 2021, as provided in this subsection. A
37 made-in-Washington bonus rate is provided for a renewable energy
38 system or a community solar project certified through June 30, 2019,
39 with solar modules made in Washington or with a wind turbine or tower
40 that is made in Washington. Both the base rates and bonus rate vary,

1 depending on the fiscal year in which the system is certified and the
 2 type of renewable energy system being certified, as provided in the
 3 following table:

4 Fiscal year	Base rate -	Base rate -	Base rate -	Base rate - shared	Made in
5 of system	residential-scale	commercial-scale	community solar	commercial solar	Washington
6 certification					bonus
7 2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
8 2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
9 2020	\$0.12	\$0.02	\$0.12	\$0.02	(\$0.03)
10 2021	(\$0.10)	(\$0.02)	\$0.10	(\$0.02)	(\$0.02)

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

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

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

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

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

32 (14) If the Washington State University extension energy program
 33 ceases issuing new certifications during a fiscal year or biennium as
 34 provided in subsection (13) of this section, in the following fiscal
 35 year or biennium, or when additional funds are available for credit
 36 such that the thresholds described in subsection (13) of this section
 37 are no longer exceeded, the Washington State University extension
 38 energy program must resume issuing new certifications using a method

1 of awarding certifications that results in equitable and orderly
2 allocation of benefits to applicants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (26) No certification may be issued under this section by the
32 Washington State University extension energy program for any
33 renewable energy system, other than a community solar project, after
34 June 30, ((2021)) 2020. No certification may be issued under this
35 section for any community solar project after June 30, 2021.

36 (27) The Washington State University extension energy program
37 must collect a one-time fee for applications submitted under
38 subsection (1) of this section of one hundred twenty-five dollars per
39 applicant. The Washington State University extension energy program
40 must deposit all revenue generated by this fee into the state general

1 fund. The Washington State University extension energy program must
2 administer and budget for the program established in RCW 82.16.120,
3 this section, and RCW 82.16.170 in a manner that ensures its
4 administrative costs through June 30, 2022, are completely met by the
5 revenues from this fee. If the Washington State University extension
6 energy program determines that the fee authorized in this subsection
7 is insufficient to cover the administrative costs through June 30,
8 2022, the Washington State University extension energy program must
9 report to the legislature on costs incurred and fees collected and
10 demonstrate why a different fee amount or funding mechanism should be
11 authorized.

12 (28) The Washington State University extension energy program
13 may, through a public process, develop any program requirements,
14 policies, and processes necessary for the administration or
15 implementation of this section, RCW 82.16.120, 82.16.155, and
16 82.16.170. The department is authorized, in consultation with the
17 Washington State University extension energy program, to adopt any
18 rules necessary for administration or implementation of the program
19 established under this section and RCW 82.16.170.

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) By December 31, 2019, the legislature must review the report
16 submitted under (a) of this subsection and determine whether the
17 credit limit established under RCW 82.16.130(2) should be increased
18 to two percent of a light and power business's taxable power sales
19 generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or
20 two hundred fifty thousand dollars, whichever is greater, in order to
21 achieve the legislative intent under section 1, chapter 36, Laws of
22 2017 3rd sp. sess.

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

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

26 (1) The definitions in this section apply throughout this section
27 and section 7 of this act unless the context clearly requires
28 otherwise.

29 (a) "Administrator" means the utility, nonprofit, or other local
30 housing authority that organizes and administers a community solar
31 project as provided in section 7 of this act and RCW 82.16.170.

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

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

1 (o) "Subscriber" means a retail electric customer of an electric
2 utility who owns or is the beneficiary of one or more subscriptions
3 or ownership shares of a community solar project directly
4 interconnected with that same utility.

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

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

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

10 (1) Beginning July 1, 2020, through June 30, 2026, an
11 administrator of a community solar project meeting the eligibility
12 requirements described in this section and RCW 82.16.170(3) may
13 submit an application to the Washington State University extension
14 energy program to receive a precertification for a community solar
15 project. Projects with precertification applications approved by the
16 Washington State University extension energy program have two years
17 to complete their projects and apply for certification. By certifying
18 qualified projects pursuant to the requirements of this section and
19 RCW 82.16.170(3), the Washington State University extension energy
20 program authorizes the utility serving the site of a community solar
21 project in the state of Washington to remit a one-time energy burden
22 reduction incentive payment to the community solar project
23 administrator, who accepts the payment on behalf of, and for the
24 purpose of providing direct benefits to, the project's qualifying
25 subscribers.

26 (2) A one-time energy burden reduction incentive payment remitted
27 to a community solar project administrator for a project certified
28 under this section equals the sum of the following:

29 (a) An amount, not to exceed twenty thousand dollars, equal to
30 the community solar project's administrative costs related to
31 administering the project for qualifying subscribers; and

32 (b) An amount equal to one hundred percent of the proportional
33 cost of the share of the community solar project that provides direct
34 benefits to qualifying subscribers.

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

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

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

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

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

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

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

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

31 (a) For fiscal year 2021, three hundred thousand dollars; and

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

34 (7)(a) Prior to obtaining certification under this section, the
35 administrator of a community solar project must apply for
36 precertification against the funds available for incentive payments
37 under subsection (6) of this section in order to be guaranteed an
38 incentive payment under this section. The application for
39 precertification must include, at a minimum:

1 (i) A project prospectus that demonstrates how the administrator
2 intends to provide direct benefits to qualifying subscribers for the
3 duration of their subscription to the community solar project; and

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

7 (b) The administrator of a community solar project must complete
8 an application for certification in accordance with the requirements
9 of subsection (8) of this section within less than two years of being
10 approved for precertification status.

11 (8) To obtain certification for the one-time energy burden
12 reduction incentive payment provided under this section, a project
13 administrator must submit to the Washington State University
14 extension energy program an application, including, at a minimum:

15 (a) A signed statement that the applicant has not previously
16 received a notice of eligibility from the department under RCW
17 82.16.120 or the Washington State University extension energy program
18 under RCW 82.16.165 entitling the applicant to receive annual
19 incentive payments for electricity generated by the community solar
20 project at the same meter location;

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

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

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

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

31 (f)(i) Except as provided in (f)(ii) of this subsection (8), the
32 date that the community solar project received its final electrical
33 inspection from the applicable local jurisdiction, as well as a copy
34 of the permit or, if the permit is available online, the permit
35 number;

36 (ii) The Washington State University extension energy program may
37 waive the requirement in (f)(i) of this subsection (8), accepting an
38 application and granting provisional certification prior to proof of
39 final electrical inspection. Provisional certification expires one
40 hundred eight days after issuance, unless the applicant submits proof

1 of the final electrical inspection from the applicable local
2 jurisdiction or the Washington State University extension energy
3 program extends certification, for a term or terms of thirty days,
4 due to extenuating circumstances;

5 (g) Confirmation of the number of qualifying subscribers; and

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

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

13 (10)(a) Within thirty days of receipt of an application for
14 certification, the Washington State University extension energy
15 program must notify the applicant and, except when a utility is the
16 applicant, the utility serving the site of the community solar
17 project, by mail or electronically, whether certification has been
18 granted. The certification notice must state the total dollar amount
19 of the energy burden reduction incentive payment for which the
20 applicant is eligible under this section.

21 (b) Within sixty days of receipt of a notification under (a) of
22 this subsection, the utility serving the site of the community solar
23 project must remit the applicable one-time energy burden reduction
24 incentive payment to the project administrator, who accepts the
25 payment on behalf of, and for the purpose of providing direct
26 benefits to, the project's qualifying subscribers.

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

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

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

35 (b) In the event that a qualifying subscriber terminates their
36 participation in a community solar project, the system certification
37 follows the project and participation may be transferred to a new
38 qualifying subscriber.

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

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

6 (b) An estimate of the amount of credit that has not yet been
7 allocated for energy burden reduction incentive payments under each
8 utility's credit limit and that remains available for new community
9 solar project certifications in the state.

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

14 (14) The nonpower attributes of the community solar project
15 belong to the individual subscribers, and must be kept, sold, or
16 transferred at a subscriber's discretion, unless a contract between
17 the subscriber and the utility clearly specifies that the attributes
18 will be retained by the utility.

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

23 (16) The Washington State University extension energy program
24 must collect a one-time fee for precertification applications
25 submitted under this section of five hundred dollars per applicant.
26 The Washington State University extension energy program must deposit
27 all revenue generated by this fee into the state general fund.

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

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

36 (19) No certification may be issued under this section by the
37 Washington State University extension energy program for a community
38 solar project after June 30, 2026.

39 (20) This section expires June 30, 2036.

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

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

7 (2) ~~((A))~~ In order to receive certification for the incentive
8 payment provided under RCW 82.16.165(1) by June 30, 2021, a community
9 solar project must have a direct current nameplate capacity that is
10 no more than one thousand kilowatts and must have at least ten
11 participants or one participant for every ten kilowatts of direct
12 current nameplate capacity, whichever is greater. A community solar
13 project that has a direct current nameplate capacity greater than
14 five hundred kilowatts must be subject to a standard interconnection
15 agreement with the utility serving the situs of the community solar
16 project. Except for community solar projects authorized under
17 subsection ~~((9))~~ (10) of this section, each participant must be a
18 customer of the utility providing service at the situs of the
19 community solar project.

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

23 (a) The administrator of the community solar project must be a
24 utility, nonprofit, or other local housing authority. The
25 administrator of the community solar project must apply for
26 precertification under section 7 of this act on or after July 1,
27 2020;

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

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

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

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

5 (f) In the event that a low-income subscriber in a community
6 solar project certified under section 7 of this act moves from the
7 household premises of the subscriber's current subscription to
8 another, the subscriber may continue the subscription, provided that
9 the new household premises is served by the utility providing service
10 at the site of the community solar project. In the event that a
11 subscriber is no longer served by that utility or the subscriber
12 terminates participation in a community solar project certified under
13 section 7 of this act, the certification follows the system and
14 participation may be transferred by the administrator to a new
15 qualifying subscriber;

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

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

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

28 ~~((4))~~ (5) The administrator of a community solar project may
29 establish a reasonable fee to cover costs incurred in organizing and
30 administering the community solar project. Project participants,
31 prior to making the commitment to participate in the project, must be
32 given clear and conspicuous notice of the portion of the incentive
33 payment that will be used for this purpose.

34 ~~((5))~~ (6) The administrator of a community solar project must
35 maintain and update annually through June 30, 2030, the following
36 information for each project it operates or administers:

- 37 (a) Ownership information;
- 38 (b) Contact information for technical management questions;
- 39 (c) Business address;

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

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

5 ~~((6))~~ (7) The administrator of a community solar project must
6 provide the information required in subsection ~~((5))~~ (6) of this
7 section to the Washington State University extension energy program
8 at the time it submits the applications allowed under RCW
9 82.16.165(1) and section 7 of this act.

10 ~~((7))~~ (8) The administrator of a community solar project must
11 provide each project participant with a disclosure form containing
12 all material terms and conditions of participation in the project,
13 including but not limited to the following:

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

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

21 (c) All recurring and nonrecurring charges;

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

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

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

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

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

30 ~~((8))~~ (9) A utility may not adopt rates, terms, conditions, or
31 standards that unduly or unreasonably discriminate between utility-
32 administered community solar projects and those administered by
33 another entity.

34 ~~((9))~~ (10) A public utility district that is engaged in
35 distributing electricity to more than one retail electric customer in
36 the state and a joint operating agency organized under chapter 43.52
37 RCW on or before January 1, 2017, may enter into an agreement with
38 each other to construct and own a community solar project that is
39 located on property owned by a joint operating agency or on property
40 that receives electric service from a participating public utility

1 district. Each participant of a community solar project under this
2 subsection must be a customer of at least one of the public utility
3 districts that is a party to the agreement with a joint operating
4 agency to construct and own a community solar project.

5 ~~((10))~~ (11) The Washington utilities and transportation
6 commission must publish, without disclosing proprietary information,
7 a list of the following:

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

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

13 ~~((11))~~ (12) If a consumer-owned utility opts to provide a
14 community solar program or contracts with a nonutility administrator
15 to offer a community solar program, the governing body of the
16 consumer-owned utility must publish, without disclosing proprietary
17 information, a list of the nonutility administrators contracted by
18 the utility as part of its community solar program.

19 ~~((12))~~ (13) A utility administrator of a community solar
20 project applying for and receiving precertification and certification
21 on or after July 1, 2020, that meets the requirements of section 7 of
22 this act and subsection (3) of this section may provide energy
23 assistance and investments to reduce the energy burden for low-income
24 households and low-income service providers by offsetting the
25 proportional administration and subscription costs for those
26 entities.

27 (14) Except for parties engaged in actions and transactions
28 regulated under laws administered by other authorities and exempted
29 under RCW 19.86.170, a violation of this section constitutes an
30 unfair or deceptive act in trade or commerce in violation of chapter
31 19.86 RCW, the consumer protection act. Acts in violation of chapter
32 36, Laws of 2017 3rd sp. sess. are not reasonable in relation to the
33 development and preservation of business, and constitute matters
34 vitally affecting the public interest for the purpose of applying the
35 consumer protection act, chapter 19.86 RCW.

36 ~~((13))~~ (15) Nothing in this section may be construed as
37 intending to preclude persons from investing in or possessing an
38 ownership interest in a community solar project, or from applying for
39 and receiving federal investment tax credits.

40 (16) This section expires June 30, 2036.

1 **Sec. 9.** RCW 80.60.005 and 1998 c 318 s 1 are each amended to
2 read as follows:

3 The legislature finds that it is in the public interest to:

- 4 (1) Encourage private investment in renewable energy resources;
5 (2) Stimulate the economic growth of this state; ~~((and))~~
6 (3) Enhance the continued diversification of the energy resources
7 used in this state; and
8 (4) Expand access to solar energy through enhanced opportunities
9 to participate in community solar projects.

10 **Sec. 10.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to
11 read as follows:

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

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

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

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

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

35 ~~((iii))~~ (C) A solar energy system, placed on the property owned
36 by a cooperating local governmental entity that is not in the light
37 and power business or in the gas distribution business, that is
38 capable of generating up to seventy-five kilowatts of electricity,
39 and that is owned by a company whose members are each eligible for an

1 investment cost recovery incentive for the same customer-generated
2 electricity as provided in RCW 82.16.120.

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

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

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

9 ~~((B))~~ (II) Not a "utility" as defined in this subsection
10 ~~((2—b))~~ (1)(b)(ii); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) In the case of a community solar project as defined in RCW
23 82.16.110~~((2)(a)(i))~~ (1)(b)(i)(A), the administrator must apply for
24 the investment cost recovery incentive on behalf of each of the other
25 owners.

26 (c) In the case of a community solar project as defined in RCW
27 82.16.110~~((2)(a)(iii))~~ (1)(b)(i)(C), the company owning the
28 community solar project must apply for the investment cost recovery
29 incentive on behalf of each member of the company.

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

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

39 (c) The certification must include:

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)(i))~~) (1)(b)(i)(A), the
5 certification 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 certification must also include the name and address of each member
10 of the company;

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

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

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

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

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

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

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

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

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

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

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

38 (3)(a) By August 1st of each year through August 1, 2017, the
39 application for the incentive must be made to the light and power
40 business serving the situs of the system by certification in a form

1 and manner prescribed by the department that includes, but is not
2 limited to, the following information:

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

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

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

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

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

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

19 (b) Within sixty days of receipt of the incentive certification
20 the light and power business serving the situs of the system must
21 notify the applicant in writing whether the incentive payment will be
22 authorized or denied. The business may consult with the climate and
23 rural energy development center to determine eligibility for the
24 incentive payment. Incentive certifications and the information
25 contained therein are not confidential tax information under RCW
26 82.32.330 and are subject to disclosure.

27 (c)(i) Persons, administrators of community solar projects, and
28 companies receiving incentive payments must keep and preserve, for a
29 period of five years, suitable records as may be necessary to
30 determine the amount of incentive applied for and received. Such
31 records must be open for examination at any time upon notice by the
32 light and power business that made the payment or by the department.
33 If upon examination of any records or from other information obtained
34 by the business or department it appears that an incentive has been
35 paid in an amount that exceeds the correct amount of incentive
36 payable, the business may assess against the person for the amount
37 found to have been paid in excess of the correct amount of incentive
38 payable and must add thereto interest on the amount. Interest is
39 assessed in the manner that the department assesses interest upon
40 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. 12.** 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. 13.** 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. 14. The provisions of RCW 82.32.805 and
29 82.32.808 do not apply to this act.

30 NEW SECTION. Sec. 15. 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.

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