
SENATE BILL 6170

State of Washington

61st Legislature

2009 Regular Session

By Senators Hobbs and Prentice

1 AN ACT Relating to environmental tax incentives; amending RCW
2 81.104.170, 82.14.050, 82.14.060, 82.04.263, 82.04.294, 82.08.9651,
3 82.12.9651, 82.16.110, 82.16.120, 82.16.130, 82.08.890, 82.12.890, and
4 82.08.020; adding new sections to chapter 82.08 RCW; adding new
5 sections to chapter 82.12 RCW; adding a new section to chapter 82.14
6 RCW; adding a new section to chapter 82.04 RCW; creating new sections;
7 repealing RCW 82.08.813 and 82.12.813; providing effective dates;
8 providing expiration dates; and declaring an emergency.

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

10 **PART I**

11 **Renewable Energy**

12 NEW SECTION. **Sec. 101.** A new section is added to chapter 82.08
13 RCW to read as follows:

14 (1) Except as provided in section 103 of this act, purchasers who
15 have paid the tax imposed by RCW 82.08.020 on machinery and equipment
16 used directly in generating electricity using fuel cells, wind, sun,
17 biomass energy, tidal or wave energy, geothermal resources, anaerobic
18 digestion, technology that converts otherwise lost energy from exhaust,

1 or landfill gas as the principal source of power, or to sales of or
2 charges made for labor and services rendered in respect to installing
3 such machinery and equipment, are eligible for a partial exemption in
4 the form of a remittance, but only if the purchaser develops with such
5 machinery, equipment, and labor a facility capable of generating not
6 less than two hundred watts of electricity. The amount of the
7 exemption is equal to fifty percent of the state and local sales tax
8 paid.

9 (2) For purposes of this section and section 102 of this act, the
10 following definitions apply:

11 (a) "Biomass energy" has the same meaning as in RCW 19.285.030.

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

15 (c) "Landfill gas" means biomass fuel, of the type qualified for
16 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal
17 internal revenue code, collected from a "landfill" as defined under RCW
18 70.95.030.

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

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

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

1 anaerobic digestion, technology that converts otherwise lost energy
2 from exhaust, or landfill gas, converts that energy to electricity, and
3 stores, transforms, or transmits that electricity for entry into or
4 operation in parallel with electric transmission and distribution
5 systems.

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

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

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

30 (5) This section expires July 1, 2013.

31 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.12
32 RCW to read as follows:

33 (1) Except as provided in section 104 of this act, consumers who
34 have paid the tax imposed by RCW 82.12.020 on machinery and equipment
35 used directly in generating electricity using fuel cells, wind, sun,
36 biomass energy, tidal or wave energy, geothermal resources, anaerobic
37 digestion, technology that converts otherwise lost energy from exhaust,

1 or landfill gas as the principal source of power, or to sales of or
2 charges made for labor and services rendered in respect to installing
3 such machinery and equipment, are eligible for a partial exemption in
4 the form of a remittance, but only if the purchaser develops with such
5 machinery, equipment, and labor a facility capable of generating not
6 less than two hundred watts of electricity. The amount of the
7 exemption is equal to fifty percent of state and local taxes paid.

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

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

26 (3) Purchases exempt under section 101 of this act are also exempt
27 from the tax imposed under RCW 82.12.020.

28 (4) The definitions in section 101 of this act apply to this
29 section.

30 (5) This section expires June 30, 2013.

31 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.08
32 RCW to read as follows:

33 (1) The tax levied by RCW 82.08.020 does not apply to sales of
34 machinery and equipment used directly in generating electricity using
35 solar energy, or to sales of or charges made for labor and services
36 rendered in respect to installing such machinery and equipment, but
37 only if the purchaser develops with such machinery, equipment, and

1 labor a facility capable of generating not more than ten kilowatts of
2 electricity and provides the seller with an exemption certificate in a
3 form and manner prescribed by the department. The seller must retain
4 a copy of the certificate for the seller's files.

5 (2) For purposes of this section and section 104 of this act:

6 (a) "Machinery and equipment" means industrial fixtures, devices,
7 and support facilities that are integral and necessary to the
8 generation of electricity using solar energy;

9 (b) "Machinery and equipment" does not include: (i) Hand-powered
10 tools; (ii) property with a useful life of less than one year; (iii)
11 repair parts required to restore machinery and equipment to normal
12 working order; (iv) replacement parts that do not increase
13 productivity, improve efficiency, or extend the useful life of
14 machinery and equipment; (v) buildings; or (vi) building fixtures that
15 are not integral and necessary to the generation of electricity that
16 are permanently affixed to and become a physical part of a building;
17 and

18 (c) Machinery and equipment is "used directly" in generating
19 electricity with solar energy if it provides any part of the process
20 that captures the energy of the sun, converts that energy to
21 electricity, and stores, transforms, or transmits that electricity for
22 entry into or operation in parallel with electric transmission and
23 distribution systems.

24 (3) This section expires June 30, 2013.

25 NEW SECTION. **Sec. 104.** A new section is added to chapter 82.12
26 RCW to read as follows:

27 (1) The provisions of this chapter do not apply with respect to
28 machinery and equipment used directly in generating not more than ten
29 kilowatts of electricity using solar energy, or to the use of labor and
30 services rendered in respect to installing such machinery and
31 equipment.

32 (2) The definitions in section 103 of this act apply to this
33 section.

34 (3) This section expires June 30, 2013.

35 NEW SECTION. **Sec. 105.** A new section is added to chapter 82.14
36 RCW to read as follows:

1 The exemptions in sections 101 through 104 of this act are for the
2 state and local sales and use taxes and include the sales and use taxes
3 imposed under the authority of this chapter.

4 **Sec. 106.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to
5 read as follows:

6 (1) Cities that operate transit systems, county transportation
7 authorities, metropolitan municipal corporations, public transportation
8 benefit areas, and regional transit authorities may submit an
9 authorizing proposition to the voters and if approved by a majority of
10 persons voting, fix and impose a sales and use tax in accordance with
11 the terms of this chapter, solely for the purpose of providing high
12 capacity transportation service.

13 (2) The tax authorized pursuant to this section shall be in
14 addition to the tax authorized by RCW 82.14.030 and shall be collected
15 from those persons who are taxable by the state pursuant to chapters
16 82.08 and 82.12 RCW upon the occurrence of any taxable event within the
17 taxing district. The maximum rate of such tax shall be approved by the
18 voters and shall not exceed one percent of the selling price (in the
19 case of a sales tax) or value of the article used (in the case of a use
20 tax). The maximum rate of such tax that may be imposed shall not
21 exceed nine-tenths of one percent in any county that imposes a tax
22 under RCW 82.14.340, or within a regional transit authority if any
23 county within the authority imposes a tax under RCW 82.14.340.

24 (3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the
25 state portion of the sales and use tax and do not extend to the tax
26 authorized in this section.

27 (b) The exemptions in sections 101 and 102 of this act are for the
28 state and local sales and use taxes and include the tax authorized by
29 this section.

30 **Sec. 107.** RCW 82.14.050 and 2005 c 336 s 20 are each amended to
31 read as follows:

32 (1) The counties, cities, and transportation authorities under RCW
33 82.14.045, public facilities districts under chapters 36.100 and 35.57
34 RCW, public transportation benefit areas under RCW 82.14.440, regional
35 transportation investment districts, and transportation benefit
36 districts under chapter 36.73 RCW shall contract, prior to the

1 effective date of a resolution or ordinance imposing a sales and use
2 tax, the administration and collection to the state department of
3 revenue, which shall deduct a percentage amount, as provided by
4 contract, not to exceed two percent of the taxes collected for
5 administration and collection expenses incurred by the department. The
6 remainder of any portion of any tax authorized by this chapter that is
7 collected by the department of revenue shall be deposited by the state
8 department of revenue in the local sales and use tax account hereby
9 created in the state treasury. Moneys in the local sales and use tax
10 account may be (~~spent~~) withdrawn only for:

11 (a) Distribution to counties, cities, transportation authorities,
12 public facilities districts, public transportation benefit areas,
13 regional transportation investment districts, and transportation
14 benefit districts imposing a sales and use tax; and

15 (b) Making refunds of taxes imposed under the authority of this
16 chapter and RCW 81.104.170 and exempted under sections 101 and 102 of
17 this act.

18 (2) All administrative provisions in chapters 82.03, 82.08, 82.12,
19 and 82.32 RCW, as they now exist or may hereafter be amended, shall,
20 insofar as they are applicable to state sales and use taxes, be
21 applicable to taxes imposed pursuant to this chapter.

22 (3) Counties, cities, transportation authorities, public facilities
23 districts, and regional transportation investment districts may not
24 conduct independent sales or use tax audits of sellers registered under
25 the streamlined sales tax agreement.

26 (4) Except as provided in RCW 43.08.190, all earnings of
27 investments of balances in the local sales and use tax account shall be
28 credited to the local sales and use tax account and distributed to the
29 counties, cities, transportation authorities, public facilities
30 districts, public transportation benefit areas, regional transportation
31 investment districts, and transportation benefit districts monthly.

32 **Sec. 108.** RCW 82.14.060 and 2005 c 336 s 21 are each amended to
33 read as follows:

34 (1)(a) Monthly, the state treasurer (~~shall make distribution~~)
35 must distribute from the local sales and use tax account to the
36 counties, cities, transportation authorities, public facilities

1 districts, and transportation benefit districts the amount of tax
2 collected on behalf of each taxing authority, less:

3 (i) The deduction provided for in RCW 82.14.050; and

4 (ii) The amount of any refunds of local sales and use taxes
5 exempted under sections 101 and 102 of this act, which must be made
6 without appropriation.

7 (b) The state treasurer shall make the distribution under this
8 section without appropriation.

9 (2) In the event that any ordinance or resolution imposes a sales
10 and use tax at a rate in excess of the applicable limits contained
11 herein, such ordinance or resolution shall not be considered void in
12 toto, but only with respect to that portion of the rate which is in
13 excess of the applicable limits contained herein.

14 NEW SECTION. Sec. 109. A new section is added to chapter 82.12
15 RCW to read as follows:

16 (1) Except as provided in subsection (2) of this section, the
17 expiration of RCW 82.12.02567 and section 102 of this act do not
18 require the payment of, or authorize the department to assess, use tax
19 imposed by or under the authority of RCW 82.12.020, 81.104.170, and
20 chapter 82.14 RCW, on the use of machinery and equipment, and labor and
21 services rendered in respect to installing such machinery and
22 equipment, if such use qualified for the exemption under RCW
23 82.12.02567 or section 102 of this act immediately preceding the
24 expiration date of the applicable exemption under RCW 82.12.02567 or
25 section 102 of this act.

26 (2) Subsection (1) of this section does not prohibit the department
27 from assessing, subject to the limitations period in RCW 82.32.050,
28 state and local use taxes on the use of machinery and equipment, and
29 labor and services rendered in respect to installing such machinery and
30 equipment, if, before the expiration of the applicable exemption
31 provided in RCW 82.12.02567 or section 102 of this act, the machinery
32 and equipment was put to a use that is outside of the scope of the
33 applicable exemption in RCW 82.12.02567 or section 102 of this act.

34 **PART II**

35 **Radioactive Waste Cleanup**

1 NEW SECTION. **Sec. 201.** (1) The legislature finds that the
2 cleaning up of radioactive waste at the Hanford site is crucial to the
3 environment in this state. The legislature intends to include services
4 supporting the cleanup within the radioactive waste clean-up business
5 and occupation tax classification, but it is not the legislature's
6 intent to extend the radioactive waste clean-up classification to all
7 business activities conducted at the Hanford site or performed for
8 persons engaged in the performance of cleanup.

9 (2) It is the legislature's intent in enacting this legislation to
10 ensure that the radioactive waste clean-up business and occupation tax
11 classification applies to all services contributing to the performance
12 of a clean-up project at the Hanford site other than services that are
13 routinely provided to any business, including businesses that are not
14 engaged in clean-up activities.

15 **Sec. 202.** RCW 82.04.263 and 1996 c 112 s 3 are each amended to
16 read as follows:

17 (1) Upon every person engaging within this state in the business of
18 cleaning up for the United States, or its instrumentalities,
19 radioactive waste and other by-products of weapons production and
20 nuclear research and development; as to such persons the amount of the
21 tax with respect to such business shall be equal to the ~~((value of~~
22 ~~the))~~ gross income of the business multiplied by the rate of 0.471
23 percent.

24 (2) For the purposes of this chapter, "cleaning up radioactive
25 waste and other by-products of weapons production and nuclear research
26 and development" means:

27 (a) The activities of handling, storing, treating, immobilizing,
28 stabilizing, or disposing of radioactive waste, radioactive tank waste
29 and capsules, nonradioactive hazardous solid and liquid wastes, or
30 spent nuclear fuel;

31 (b) Spent nuclear fuel conditioning;

32 (c) Removal of contamination in soils and groundwater;

33 (d) Decontamination and decommissioning of facilities; and
34 ~~((activities integral and necessary to the direct performance of~~
35 ~~cleanup))~~ (e) Services supporting the performance of cleanup. For the

36 purposes of this subsection (2)(e), a service supports the performance
37 of cleanup if it:

1 (i) Is within the scope of work under a clean-up contract with the
2 United States department of energy; or

3 (ii) Assists in the accomplishment of a requirement of a clean-up
4 project undertaken by the United States department of energy under a
5 subcontract entered into with the prime contractor or another
6 subcontractor in furtherance of a clean-up contract between the United
7 States department of energy and a prime contractor.

8 (3) A service does not assist in the accomplishment of a
9 requirement of a clean-up project undertaken by the United States
10 department of energy if the same services are routinely provided to
11 businesses not engaged in clean-up activities, except that the
12 following services are always deemed to contribute to the
13 accomplishment of a requirement of a clean-up project undertaken by the
14 United States department of energy:

15 (a) Information technology and computer support services;

16 (b) Services rendered in respect to infrastructure; and

17 (c) Security, safety, and health services.

18 (4) The legislature intends that the examples provided in this
19 subsection be used as a guideline when determining whether a service is
20 "routinely provided to businesses not engaged in clean-up activities"
21 as that phrase is used in subsection (3) of this section.

22 (a) The radioactive waste clean-up classification does not apply to
23 general accounting services but does apply to performance audits
24 performed for persons cleaning up radioactive waste.

25 (b) The radioactive waste clean-up classification does not apply to
26 general legal services but does apply to those legal services that
27 assist in the accomplishment of a requirement of a clean-up project
28 undertaken by the United States department of energy. Thus, legal
29 services provided to contest any local, state, or federal tax liability
30 or to defend a company against a workers' compensation claim arising
31 from a worksite injury do not qualify for the radioactive waste clean-
32 up classification. But, legal services related to the resolution of a
33 contractual dispute between the parties to a clean-up contract between
34 the United States department of energy and a prime contractor do
35 qualify.

36 (c) General office janitorial services do not qualify for the
37 radioactive waste clean-up classification, but the specialized cleaning
38 of equipment exposed to radioactive waste does qualify.

1 **PART III**

2 **Hog Fuel Tax Relief**

3 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.08
4 RCW to read as follows:

5 (1) The tax levied by RCW 82.08.020 does not apply to sales of hog
6 fuel used to produce electricity, steam, heat, or biofuel. This
7 exemption is available only if the buyer provides the seller with an
8 exemption certificate in a form and manner prescribed by the
9 department. The seller must retain a copy of the certificate for the
10 seller's files.

11 (2) For the purposes of this section the following definitions
12 apply:

13 (a) "Hog fuel" means wood waste and other wood residuals including
14 forest derived biomass. "Hog fuel" does not include firewood or wood
15 pellets; and

16 (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

17 (3) This section expires June 30, 2013.

18 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.12
19 RCW to read as follows:

20 (1) The provisions of this chapter do not apply with respect to the
21 use of hog fuel for production of electricity, steam, heat, or biofuel.

22 (2) For the purposes of this section:

23 (a) "Hog fuel" has the same meaning as provided in section 301 of
24 this act; and

25 (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

26 (3) This section expires June 30, 2013.

27 **PART IV**

28 **Biomass Energy Incentives**

29 NEW SECTION. **Sec. 401.** A new section is added to chapter 82.04
30 RCW to read as follows:

31 (1) In computing the tax imposed under this chapter, harvesters are
32 allowed a credit against the amount of tax otherwise due under this
33 chapter, as provided in this section. The credit per harvested green
34 ton of forest derived biomass sold, transferred, or used for production
35 of electricity, steam, heat, or biofuel is as follows:

1 (a) For forest derived biomass harvested October 1, 2009, through
2 June 30, 2010, zero dollars;

3 (b) For forest derived biomass harvested July 1, 2010, through June
4 30, 2013, three dollars;

5 (c) For forest derived biomass harvested July 1, 2013, through June
6 30, 2015, five dollars.

7 (2) Credit may not be claimed for forest derived biomass sold,
8 transferred, or used before the effective date of this section. The
9 amount of credit allowed for a reporting period may not exceed the tax
10 otherwise due under this chapter for that reporting period. Any unused
11 excess credit in a reporting period may be carried forward to future
12 reporting periods for a maximum of two years.

13 (3) For the purposes of this section, "harvested" and "harvesters"
14 are defined in RCW 84.33.035, and "biofuel" is defined in RCW
15 43.325.010.

16 (4) This section expires June 30, 2015.

17 NEW SECTION. **Sec. 402.** A new section is added to chapter 82.08
18 RCW to read as follows:

19 (1) The tax levied by RCW 82.08.020 does not apply to sales of
20 forest derived biomass used to produce electricity, steam, heat, or
21 biofuel. This exemption is available only if the buyer provides the
22 seller with an exemption certificate in a form and manner prescribed by
23 the department. The seller must retain a copy of the certificate for
24 the seller's files.

25 (2) For purposes of this section, "biofuel" is defined in RCW
26 43.325.010.

27 (3) This section expires June 30, 2013.

28 NEW SECTION. **Sec. 403.** A new section is added to chapter 82.12
29 RCW to read as follows:

30 (1) The provisions of this chapter do not apply with respect to the
31 use of forest derived biomass for production of electricity, steam,
32 heat, or biofuel.

33 (2) For purposes of this section, "biofuel" is defined in RCW
34 43.325.010.

35 (3) This section expires June 30, 2013.

1 sales of the solar energy systems using photovoltaic modules, or of the
2 solar grade silicon to be used exclusively in components of such
3 systems, multiplied by the rate of 0.275 percent.

4 (3) Beginning October 1, 2009, silicon solar wafers, silicon solar
5 cells, thin film solar devices, or compound semiconductor solar wafers
6 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
7 82.12.9651.

8 (4) The definitions in this subsection apply throughout this
9 section.

10 (a) "Compound semiconductor solar wafers" means a semiconductor
11 solar wafer composed of elements from two or more different groups of
12 the periodic table.

13 (b) "Module" means the smallest nondivisible self-contained
14 physical structure housing interconnected photovoltaic cells and
15 providing a single direct current electrical output.

16 ((+b+)) (c) "Photovoltaic cell" means a device that converts light
17 directly into electricity without moving parts.

18 ((+e+)) (d) "Silicon solar cells" means a photovoltaic cell
19 manufactured from a silicon solar wafer.

20 (e) "Silicon solar wafers" means a silicon wafer manufactured for
21 solar conversion purposes.

22 (f) "Solar energy system" means any device or combination of
23 devices or elements that rely upon direct sunlight as an energy source
24 for use in the generation of electricity.

25 ((+d+)) (g) "Solar grade silicon" means high-purity silicon used
26 exclusively in components of solar energy systems using photovoltaic
27 modules to capture direct sunlight. "Solar grade silicon" does not
28 include silicon used in semiconductors.

29 ((+4+)) (h) "Thin film solar devices" means a nonparticipating
30 substrate on which various semiconducting materials are deposited to
31 produce a photovoltaic cell that is used to generate electricity.

32 (5) This section expires June 30, 2014.

33 **Sec. 502.** RCW 82.08.9651 and 2006 c 84 s 3 are each amended to
34 read as follows:

35 (1) The tax levied by RCW 82.08.020 ((shall)) does not apply to
36 sales of gases and chemicals used by a manufacturer or processor for
37 hire in the production of semiconductor materials. This exemption is

1 limited to gases and chemicals used in the production process to grow
2 the product, deposit or grow permanent or sacrificial layers on the
3 product, to etch or remove material from the product, to anneal the
4 product, to immerse the product, to clean the product, and other such
5 uses whereby the gases and chemicals come into direct contact with the
6 product during the production process, or uses of gases and chemicals
7 to clean the chambers and other like equipment in which such processing
8 takes place. For the purposes of this section, "semiconductor
9 materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

10 (2) A person taking the exemption under this section must report
11 under RCW 82.32.5351. No application is necessary for the tax
12 exemption. The person is subject to all of the requirements of chapter
13 82.32 RCW.

14 (3) This section expires twelve years after December 1, 2006.

15 **Sec. 503.** RCW 82.12.9651 and 2006 c 84 s 4 are each amended to
16 read as follows:

17 (1) The provisions of this chapter do not apply with respect to the
18 use of gases and chemicals used by a manufacturer or processor for hire
19 in the production of semiconductor materials. This exemption is
20 limited to gases and chemicals used in the production process to grow
21 the product, deposit or grow permanent or sacrificial layers on the
22 product, to etch or remove material from the product, to anneal the
23 product, to immerse the product, to clean the product, and other such
24 uses whereby the gases and chemicals come into direct contact with the
25 product during the production process, or uses of gases and chemicals
26 to clean the chambers and other like equipment in which such processing
27 takes place. For purposes of this section, "semiconductor materials"
28 has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

29 (2) A person taking the exemption under this section must report
30 under RCW 82.32.5351. No application is necessary for the tax
31 exemption. The person is subject to all of the requirements of chapter
32 82.32 RCW.

33 (3) This section expires twelve years after December 1, 2006.

34 **Sec. 504.** RCW 82.16.110 and 2005 c 300 s 2 are each amended to
35 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1)(a) "Community solar project" means:

4 (i) A solar energy system owned by local individuals, households,
5 nonprofit organizations, or nonutility businesses that is placed on the
6 property owned by a cooperating local governmental entity that is not
7 in the light and power business or in the gas distribution business; or

8 (ii) A utility-owned solar energy system that is voluntarily funded
9 by the utility's ratepayers where, in exchange for their financial
10 support, the utility gives contributors a payment or credit on their
11 utility bill for the value of the electricity produced by the project.

12 (b) For the purposes of "community solar project" as defined in (a)
13 of this subsection:

14 (i) "Nonprofit organization" means an organization exempt from
15 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
16 revenue code of 1986, as amended, as of January 1, 2009; and

17 (ii) "Utility" means a light and power business, an electric
18 cooperative, or a mutual corporation that provides electricity service.

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

29 ~~((+2))~~ (3) "Economic development kilowatt-hour" means the actual
30 kilowatt-hour measurement of customer-generated electricity multiplied
31 by the appropriate economic development factor.

32 ~~((+3))~~ (4) "Local governmental entity" means any unit of local
33 government of this state including, but not limited to, counties,
34 cities, towns, municipal corporations, quasi-municipal corporations,
35 special purpose districts, and school districts.

36 (5) "Photovoltaic cell" means a device that converts light directly
37 into electricity without moving parts.

1 ((+4)) (6) "Renewable energy system" means a solar energy system,
2 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
3 used for producing electricity.

4 ((+5)) (7) "Solar energy system" means any device or combination
5 of devices or elements that rely upon direct sunlight as an energy
6 source for use in the generation of electricity.

7 ((+6)) (8) "Solar inverter" means the device used to convert
8 direct current to alternating current in a photovoltaic cell system.

9 ((+7)) (9) "Solar module" means the smallest nondivisible self-
10 contained physical structure housing interconnected photovoltaic cells
11 and providing a single direct current electrical output.

12 ~~((+8) "Standards for interconnection to the electric distribution
13 system" means technical, engineering, operational, safety, and
14 procedural requirements for interconnection to the electric
15 distribution system of a light and power business.))~~

16 **Sec. 505.** RCW 82.16.120 and 2007 c 111 s 101 are each amended to
17 read as follows:

18 (1) Any individual, business, ~~((or))~~ local governmental entity, not
19 in the light and power business or in the gas distribution business, or
20 a participant in a community solar project may apply to the light and
21 power business serving the situs of the system, each fiscal year
22 beginning on July 1, 2005, for an investment cost recovery incentive
23 for each kilowatt-hour from a customer-generated electricity renewable
24 energy system ~~((installed on its property that is not interconnected to
25 the electric distribution system))~~. No incentive may be paid for
26 kilowatt-hours generated before July 1, 2005, or after June 30,
27 ~~((2014))~~ 2020.

28 ~~((2) ((When light and power businesses serving eighty percent of the
29 total customer load in the state adopt uniform standards for
30 interconnection to the electric distribution system, any individual,
31 business, or local governmental entity, not in the light and power
32 business or in the gas distribution business, may apply to the light
33 and power business serving the situs of the system, each fiscal year,
34 for an investment cost recovery incentive for each kilowatt-hour from
35 a customer-generated electricity renewable energy system installed on
36 its property that is not interconnected to the electric distribution
37 system and from a customer-generated electricity renewable energy~~

1 ~~system installed on its property that is interconnected to the electric~~
2 ~~distribution system. Uniform standards for interconnection to the~~
3 ~~electric distribution system means those standards established by light~~
4 ~~and power businesses that have ninety percent of total requirements the~~
5 ~~same. No incentive may be paid for kilowatt hours generated before~~
6 ~~July 1, 2005, or after June 30, 2014.~~

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

14 (i) The name and address of the applicant and location of the
15 renewable energy system;

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

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

20 (A) Any solar inverters and solar modules manufactured in
21 Washington state;

22 (B) A wind generator powered by blades manufactured in Washington
23 state;

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

25 (D) A solar module manufactured in Washington state; or

26 (E) Solar or wind equipment manufactured outside of Washington
27 state;

28 (iv) That the electricity can be transformed or transmitted for
29 entry into or operation in parallel with electricity transmission and
30 distribution systems;

31 (v) The date that the renewable energy system received its final
32 electrical permit from the applicable local jurisdiction.

33 (b) Within thirty days of receipt of the certification the
34 department of revenue (~~shall~~) must notify the applicant by mail, or
35 electronically as provided in RCW 82.32.135, whether the renewable
36 energy system qualifies for an incentive under this section. The
37 department may consult with the climate and rural energy development

1 center to determine eligibility for the incentive. System
2 certifications and the information contained therein are subject to
3 disclosure under RCW 82.32.330(3)(m).

4 ~~((4))~~ (3)(a) By August 1st of each year application for the
5 incentive shall be made to the light and power business serving the
6 situs of the system by certification in a form and manner prescribed by
7 the department that includes, but is not limited to, the following
8 information:

9 (i) The name and address of the applicant and location of the
10 renewable energy system;

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 incentives
14 under this section;

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 the
18 light and power business serving the situs of the system shall notify
19 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 subject to disclosure under RCW 82.32.330(3)(m).

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

37 (ii) If it appears that the amount of incentive paid is less than

1 the correct amount of incentive payable the business may authorize
2 additional payment.

3 ~~((+5))~~ (4) Except for community solar projects, the investment
4 cost recovery incentive may be paid fifteen cents per economic
5 development kilowatt-hour unless requests exceed the amount authorized
6 for credit to the participating light and power business. For
7 community solar projects, the investment cost recovery incentive may be
8 paid thirty cents per economic development kilowatt-hour unless
9 requests exceed the amount authorized for credit to the participating
10 light and power business. For the purposes of this section, the rate
11 paid for the investment cost recovery incentive may be multiplied by
12 the following factors:

13 (a) For customer-generated electricity produced using solar modules
14 manufactured in Washington state, two and four-tenths;

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

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

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

23 ~~((+6))~~ (5) No individual, household, business, or local
24 governmental entity is eligible for incentives provided under
25 subsection (4) of this section for more than ~~((two))~~ five thousand
26 dollars per year. Each applicant in a community solar project is
27 eligible for up to five thousand dollars per year.

28 ~~((+7))~~ (6) If requests for the investment cost recovery incentive
29 exceed the amount of funds available for credit to the participating
30 light and power business, the incentive payments shall be reduced
31 proportionately.

32 ~~((+8))~~ (7) The climate and rural energy development center at
33 Washington State University energy program may establish guidelines and
34 standards for technologies that are identified as Washington
35 manufactured and therefore most beneficial to the state's environment.

36 ~~((+9))~~ (8) The environmental attributes of the renewable energy
37 system belong to the applicant, and do not transfer to the state or the

1 light and power business upon receipt of the investment cost recovery
2 incentive.

3 **Sec. 506.** RCW 82.16.130 and 2005 c 300 s 4 are each amended to
4 read as follows:

5 (1) A light and power business shall be allowed a credit against
6 taxes due under this chapter in an amount equal to investment cost
7 recovery incentive payments made in any fiscal year under RCW
8 82.16.120. The credit shall be taken in a form and manner as required
9 by the department. The credit under this section for the fiscal year
10 (~~shall~~) may not exceed (~~twenty-five one-hundredths of~~) one percent
11 of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or
12 (~~twenty-five~~) one hundred thousand dollars, whichever is greater.
13 Incentive payments to participants in a utility-owned community solar
14 project as defined in RCW 82.16.110(1)(a)(ii) may only account for up
15 to twenty-five percent of the total allowable credit. The credit may
16 not exceed the tax that would otherwise be due under this chapter.
17 Refunds shall not be granted in the place of credits. Expenditures not
18 used to earn a credit in one fiscal year may not be used to earn a
19 credit in subsequent years.

20 (2) For any business that has claimed credit for amounts that
21 exceed the correct amount of the incentive payable under RCW 82.16.120,
22 the amount of tax against which credit was claimed for the excess
23 payments shall be immediately due and payable. The department shall
24 assess interest but not penalties on the taxes against which the credit
25 was claimed. Interest shall be assessed at the rate provided for
26 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
27 date the credit was claimed, and shall accrue until the taxes against
28 which the credit was claimed are repaid.

29 (3) The right to earn tax credits under this section expires June
30 30, (~~2015~~) 2020. Credits may not be claimed after June 30, (~~2016~~)
31 2021.

32 **PART VI**
33 **Livestock Nutrient Incentives**

34 **Sec. 601.** RCW 82.08.890 and 2006 c 151 s 2 are each amended to
35 read as follows:

1 (1) The tax levied by RCW 82.08.020 does not apply to sales to
2 eligible persons of:

3 (a) Qualifying livestock nutrient management equipment;

4 (b) Labor and services rendered in respect to installing,
5 repairing, cleaning, altering, or improving qualifying livestock
6 nutrient management equipment; and

7 (c)(i) Labor and services rendered in respect to ((operating,)
8 repairing, cleaning, altering, or improving of qualifying livestock
9 nutrient management ((equipment and)) facilities, or to ((sales of))
10 tangible personal property that becomes an ingredient or component of
11 ((the equipment and)) qualifying livestock nutrient management
12 facilities in the course of repairing, cleaning, altering, or improving
13 of such facilities.

14 (ii) The exemption provided in this subsection (1)(c) does not
15 apply to the sale of or charge made for: (A) Labor and services
16 rendered in respect to the constructing of new, or replacing previously
17 existing, qualifying livestock nutrient management facilities; or (B)
18 tangible personal property that becomes an ingredient or component of
19 qualifying livestock nutrient management facilities during the course
20 of constructing new, or replacing previously existing, qualifying
21 livestock nutrient management facilities.

22 ~~(2)((a) To be eligible, the equipment and facilities must be used~~
23 ~~exclusively for activities necessary to maintain a livestock nutrient~~
24 ~~management plan.~~

25 ~~(b))~~ The exemption provided in subsection (1) of this section
26 applies to sales made after the livestock nutrient management plan is:
27 ~~((i))~~ (a) Certified under chapter 90.64 RCW; ((+ii)) (b) approved as
28 part of the permit issued under chapter 90.48 RCW; or ((+iii)) (c)
29 approved as required under subsection (4)(c)(iii) of this section.

30 (3)(a) The department of revenue must provide an exemption
31 certificate to an eligible person upon application by that person. The
32 department of agriculture must provide a list of eligible persons, as
33 defined in subsection (4)(c)(i) and (ii) of this section, to the
34 department of revenue. Conservation districts must maintain lists of
35 eligible persons as defined in subsection (4)(c)(iii) of this section
36 to allow the department of revenue to verify eligibility. The
37 application must be in a form and manner prescribed by the department

1 and must contain information regarding the location of the dairy or
2 animal feeding operation and other information the department may
3 require.

4 (b) A person claiming an exemption under this section must keep
5 records necessary for the department to verify eligibility under this
6 section. The exemption is available only when the buyer provides the
7 seller with an exemption certificate in a form and manner prescribed by
8 the department. The seller must retain a copy of the certificate for
9 the seller's files.

10 (4) The definitions in this subsection apply to this section and
11 RCW 82.12.890 unless the context clearly requires otherwise:

12 (a) "Animal feeding operation" means a lot or facility, other than
13 an aquatic animal production facility, where the following conditions
14 are met:

15 (i) Animals, other than aquatic animals, have been, are, or will be
16 stabled or confined and fed or maintained for a total of forty-five
17 days or more in any twelve-month period; and

18 (ii) Crops, vegetation, forage growth, or postharvest residues are
19 not sustained in the normal growing season over any portion of the lot
20 or facility.

21 (b) "Conservation district" means a subdivision of state government
22 organized under chapter 89.08 RCW.

23 (c) "Eligible person" means a person: (i) Licensed to produce milk
24 under chapter 15.36 RCW who has a certified dairy nutrient management
25 plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding
26 operation and has a permit issued under chapter 90.48 RCW; or (iii) who
27 owns an animal feeding operation and has a nutrient management plan
28 approved by a conservation district as meeting natural resource
29 conservation service field office technical guide standards and who
30 possesses an exemption certificate under RCW 82.08.855.

31 (d) (~~("Livestock nutrient management equipment and facilities"~~
32 ~~means machinery, equipment, and structures used in the handling and~~
33 ~~treatment of livestock manure, such as aerators, agitators, alley~~
34 ~~scrapers, augers, dams, gutter cleaners, loaders, lagoons, pipes,~~
35 ~~pumps, separators, and tanks. The term also includes tangible personal~~
36 ~~property that becomes an ingredient or component of the equipment and~~
37 ~~facilities, including repair and replacement parts)) "Handling and
38 treatment of livestock manure" means the activities of collecting,~~

1 storing, moving, or transporting livestock manure, separating livestock
2 manure solids from liquids, or applying livestock manure to the
3 agricultural lands of an eligible person other than through the use of
4 pivot or linear type traveling irrigation systems.

5 (e) "Permit" means either a state waste discharge permit or a
6 national pollutant discharge elimination system permit, or both.

7 (f) "Qualifying livestock nutrient management equipment" means the
8 following tangible personal property for exclusive use in the handling
9 and treatment of livestock manure, including repair and replacement
10 parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers;
11 (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler
12 irrigation systems; (vii) lagoon and pond liners and floating covers;
13 (viii) loaders; (ix) manure composting devices; (x) manure spreaders;
14 (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry
15 house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry
16 house washers; (xvi) poultry litter saver machines; (xvii) pipes;
17 (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors
18 and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

19 (g) "Qualifying livestock nutrient management facilities" means the
20 following structures and facilities for exclusive use in the handling
21 and treatment of livestock manure: (i) Flush systems; (ii) lagoons;
22 (iii) liquid livestock manure storage structures, such as concrete
23 tanks or glass-lined steel tanks; and (iv) structures used solely for
24 the dry storage of manure, including roofed stacking facilities.

25 **Sec. 602.** RCW 82.12.890 and 2006 c 151 s 3 are each amended to
26 read as follows:

27 (1) The provisions of this chapter do not apply with respect to the
28 use by an eligible person of (~~tangible personal property that becomes~~
29 ~~an ingredient or component of livestock nutrient management equipment~~
30 ~~and facilities, as defined in RCW 82.08.890, or to labor and services~~
31 ~~rendered in respect to repairing, cleaning, altering, or improving~~
32 ~~eligible tangible personal property)):~~

33 (a) Qualifying livestock nutrient management equipment;

34 (b) Labor and services rendered in respect to installing,
35 repairing, cleaning, altering, or improving qualifying livestock
36 nutrient management equipment; and

1 (c)(i) Tangible personal property that becomes an ingredient or
2 component of qualifying livestock nutrient management facilities in the
3 course of repairing, cleaning, altering, or improving of such
4 facilities.

5 (ii) The exemption provided in this subsection (1)(c) does not
6 apply to the use of tangible personal property that becomes an
7 ingredient or component of qualifying livestock nutrient management
8 facilities during the course of constructing new, or replacing
9 previously existing, qualifying livestock nutrient management
10 facilities.

11 (2)(a) To be eligible, the equipment and facilities must be used
12 exclusively for activities necessary to maintain a livestock nutrient
13 management plan.

14 (b) The exemption applies to the use of tangible personal property
15 (~~(or)~~) and labor and services made after the livestock nutrient
16 management plan is: (i) Certified under chapter 90.64 RCW; (ii)
17 approved as part of the permit issued under chapter 90.48 RCW; or (iii)
18 approved as required under RCW 82.08.890(4)(c)(iii).

19 (3) The exemption certificate and recordkeeping requirements of RCW
20 82.08.890 apply to this section. The definitions in RCW 82.08.890
21 apply to this section.

22 NEW SECTION. Sec. 603. The following acts or parts of acts are
23 each repealed:

24 (1) RCW 82.08.813 (Exemptions--High gas mileage vehicles) and 2005
25 c 296 s 2; and

26 (2) RCW 82.12.813 (Exemptions--High gas mileage vehicles) and 2005
27 c 296 s 4.

28 **Sec. 604.** RCW 82.08.020 and 2006 c 1 s 3 are each amended to read
29 as follows:

30 (1) There is levied and there shall be collected a tax on each
31 retail sale in this state equal to six and five-tenths percent of the
32 selling price.

33 (2) There is levied and there shall be collected an additional tax
34 on each retail car rental, regardless of whether the vehicle is
35 licensed in this state, equal to five and nine-tenths percent of the

1 selling price. The revenue collected under this subsection shall be
2 deposited in the multimodal transportation account created in RCW
3 47.66.070.

4 (3) Beginning July 1, 2003, there is levied and collected an
5 additional tax of three-tenths of one percent of the selling price on
6 each retail sale of a motor vehicle in this state, other than retail
7 car rentals taxed under subsection (2) of this section. The revenue
8 collected under this subsection shall be deposited in the multimodal
9 transportation account created in RCW 47.66.070.

10 (4) For purposes of subsection (3) of this section, "motor vehicle"
11 has the meaning provided in RCW 46.04.320, but does not include farm
12 tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181,
13 off-road and nonhighway vehicles as defined in RCW 46.09.020, and
14 snowmobiles as defined in RCW 46.10.010.

15 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
16 collected under subsection (1) of this section shall be dedicated to
17 funding comprehensive performance audits required under RCW 43.09.470.
18 The revenue identified in this subsection shall be deposited in the
19 performance audits of government account created in RCW 43.09.475.

20 (6) The taxes imposed under this chapter shall apply to successive
21 retail sales of the same property.

22 (7)(a) Until January 1, 2011, the tax imposed in subsection (3) of
23 this section and the dedication of revenue provided for in subsection
24 (5) of this section, do not apply with respect to the sales of new
25 passenger cars, light duty trucks, and medium duty passenger vehicles,
26 which utilize hybrid technology and have a United States environmental
27 protection agency estimated highway gasoline mileage rating of at least
28 forty miles per gallon.

29 (b) As used in this subsection, "hybrid technology" means
30 propulsion units powered by both electricity and gasoline.

31 (8) The rates provided in this section apply to taxes imposed under
32 chapter 82.12 RCW as provided in RCW 82.12.020.

33 PART VII

34 Miscellaneous

35 NEW SECTION. Sec. 701. Part headings used in this act are not any
36 part of the law.

1 NEW SECTION. **Sec. 702.** Except for sections 603 and 604 of this
2 act, this act is necessary for the immediate preservation of the public
3 peace, health, or safety, or support of the state government and its
4 existing public institutions, and takes effect July 1, 2009.

5 NEW SECTION. **Sec. 703.** Sections 603 and 604 of this act take
6 effect August 1, 2009.

7 NEW SECTION. **Sec. 704.** Section 604 of this act expires January 1,
8 2011.

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