
SUBSTITUTE HOUSE BILL 2346

State of Washington

64th Legislature

2016 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Morris, Smith, Haler, Rossetti, Tarleton, Hayes, and Peterson)

READ FIRST TIME 01/29/16.

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

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

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

1 to promote installation of systems through 2020, at which point the
2 legislature expects that the state's renewable energy industry will
3 be capable of sustained growth and vitality without the cost recovery
4 incentive.

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

7 (1) This section is the tax preference performance statement for
8 the tax preference and incentives created under RCW 82.16.130 and
9 section 7 of this act. This performance statement is only intended to
10 be used for subsequent evaluation of the tax preference and
11 incentives. It is not intended to create a private right of action by
12 any party or be used to determine eligibility for preferential tax
13 treatment.

14 (2) The legislature categorizes the tax preference created under
15 RCW 82.16.130 and incentive payments authorized in section 7 of this
16 act as intended to:

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

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

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

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

24 (b) Promote economic development through increasing and improving
25 investment in, development of, and use of clean energy technology in
26 Washington; and

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

29 (4) It is the legislature's intent to provide the incentives in
30 section 7 of this act and RCW 82.16.130 in order to ensure the
31 sustainable job growth and vitality of the state's renewable energy
32 sector. The purpose of the incentive is to reduce the costs
33 associated with installing and operating solar energy systems by
34 persons or entities receiving the incentive.

35 (5) As part of its 2019 tax preference reviews conducted under
36 chapter 43.136 RCW, the joint legislative audit and review committee
37 must review the tax preferences and incentives in section 7 of this
38 act and RCW 82.16.130. The legislature intends for the legislative

1 auditor to determine that the incentive has achieved its desired
2 outcomes if the following objectives are achieved:

3 (a) Achievement of two hundred megawatts of solar photovoltaic
4 capacity in Washington by 2020; and

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

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

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

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

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

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

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

32 (1)(a) Any individual, business, local governmental entity, not
33 in the light and power business or in the gas distribution business,
34 or a participant in a community solar project may apply to the light
35 and power business serving the situs of the system, each fiscal year
36 beginning on July 1, 2005, and ending June 30, 2016, for an
37 investment cost recovery incentive for each kilowatt-hour from a
38 customer-generated electricity renewable energy system.

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

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

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

16 (b) No person may submit a certification to the department under
17 (a) of this subsection after June 30, 2016.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (3)(a) By August 1st of each year through August 1, 2016, the
17 application for the incentive must be made to the light and power
18 business serving the situs of the system by certification in a form
19 and manner prescribed by the department that includes, but is not
20 limited to, the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 ~~((8))~~ (7) The environmental attributes of the renewable energy
36 system belong to the applicant, and do not transfer to the state or
37 the light and power business upon receipt of the investment cost
38 recovery incentive.

1 ~~((9))~~ (8) No incentive may be paid under this section for
2 kilowatt-hours generated before July 1, 2005, or after June 30,
3 ~~((2020))~~ 2016.

4 (9) Beginning July 1, 2016, program management, technical review,
5 and tracking responsibilities of the department under this section
6 are transferred to the Washington State University extension energy
7 program. At the earliest date practicable and no later than June 30,
8 2016, the department must transfer all records necessary for the
9 administration of the remaining incentive payments due under this
10 section to the Washington State University extension energy program.

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

13 (1) The legislature intends to allow existing participants in the
14 investment cost recovery program to continue to receive payments for
15 electricity produced through June 2020 at the rates they anticipated
16 when they first received notice of eligibility to participate in the
17 program.

18 (2) Any person or community solar project administrator that
19 received notice under RCW 82.16.120(2)(d) from the department of
20 eligibility to receive incentive payments for the electricity
21 produced by a renewable energy system or community solar project may
22 continue through June 30, 2020, to receive annual payments at the
23 applicable rates provided under RCW 82.16.120 (4) or (5) for each
24 kilowatt-hour of electricity produced by a certified renewable energy
25 system.

26 (3) A person or administrator of a community solar project must
27 apply to the Washington State University extension energy program by
28 July 1, 2016, to receive a certification authorizing the utility
29 serving the situs of the renewable energy system to remit an
30 investment cost recovery incentive for each kilowatt-hour generated
31 by a certified renewable energy system for each fiscal year,
32 beginning July 1, 2016, and ending June 30, 2020. The Washington
33 State University extension energy program must review the data
34 provided by the department under RCW 82.16.120(9) and establish an
35 application process by which to collect any additional information
36 that it requires.

37 (4) A community solar project that has submitted certification to
38 the department under RCW 82.16.120(2)(b) but that has not yet begun
39 to produce electricity as of the effective date of this section may

1 apply to the Washington State University extension energy program for
2 certification under section 7 of this act, notwithstanding prior
3 certification under RCW 82.16.120.

4 (5) The Washington State University extension energy program may
5 assess a reasonable fee to cover the costs of issuing certifications
6 under this section. Such fee should not exceed the costs incurred by
7 the department in administering the program created in RCW 82.16.120.

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

10 (1) A light and power business shall be allowed a credit against
11 taxes due under this chapter in an amount equal to (~~investment cost~~
12 ~~recovery~~) incentive payments made in any fiscal year under RCW
13 82.16.120 and section 7 of this act.

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

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

31 (~~(+2)~~) (4) For any business that has claimed credit for amounts
32 that exceed the correct amount of the incentive payable under RCW
33 82.16.120, the amount of tax against which credit was claimed for the
34 excess payments shall be immediately due and payable. The department
35 may deduct amounts due from future incentive payments.

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

1 RCW, retroactively to the date the credit was claimed, and (~~shall~~)
2 accrues until the taxes against which the credit was claimed are
3 repaid.

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

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

12 (6) The right to earn tax credits under this section expires June
13 30, (~~2020~~) 2030. Credits may not be claimed after June 30, (~~2021~~)
14 2031.

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

17 The definitions in this section apply throughout this section and
18 sections 7 and 8 of this act unless the context clearly requires
19 otherwise.

20 (1) "Certification" means the authorization issued by the
21 Washington State University extension energy program establishing a
22 person's eligibility to receive annual incentive payments from the
23 person's utility for a term of ten years.

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

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

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

36 (5) "Consumer-owned utility" has the same meaning as in RCW
37 19.280.020.

38 (6) "Customer-owner" means the owner of a residential-scale or
39 commercial-scale renewable energy system, where such owner is not a

1 utility and such owner either owns the premises where the renewable
2 energy system is installed or occupies the premises.

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

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

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

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

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

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

19 (1) Beginning July 1, 2016, the following persons may apply to
20 the Washington State University extension energy program to receive a
21 certification authorizing the utility serving the situs of a
22 renewable energy system in the state of Washington to remit an annual
23 production incentive for each kilowatt-hour of alternating current
24 electricity generated by the renewable energy system:

25 (a) The customer-owner of a residential-scale or commercial-scale
26 renewable energy system;

27 (b) The nonprofit organization or utility that administers a
28 community solar project meeting the eligibility requirements outlined
29 in section 8 of this act and applies for certification on behalf of
30 each of the project participants; or

31 (c) The utility that owns or operates a renewable energy system
32 other than a community solar project and passes one hundred percent
33 of the incentive payment, through a credit to the customer account or
34 through another mechanism, to customers participating in the utility-
35 owned or utility-operated renewable energy system.

36 (2) No person is eligible to receive incentive payments provided
37 under subsection (1)(a) of this section of more than twenty-five
38 thousand dollars per year.

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

7 (b) No new certification may be issued under this section for an
8 additional system, either residential-scale or commercial-scale, if a
9 residential-scale or commercial-scale system at the same situs or at
10 the same billing meter has already been certified under this section.
11 Instead, an applicant may seek recertification of an expanded system,
12 as provided in (c) of this subsection.

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

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

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

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

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

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

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

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

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

20 (b) If the utility opts to require the customer to report
21 electricity production data to the Washington State University
22 extension energy program or opts to provide the report by mail rather
23 than in an electronic format, the utility must negotiate with the
24 Washington State University extension energy program a fee-for-
25 service arrangement that covers the program's costs of obtaining the
26 electricity production data and incorporating it into an electronic
27 format. This fee-for-service arrangement is also applicable to a
28 utility's exercise of the option of requiring customer reporting or
29 by mail reporting, described in subsection (18) of this section.

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

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

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

36 (c) For commercial-scale systems, twenty-five thousand dollars.

37 (7) To obtain certification to receive the annual production
38 incentive payments provided in this section for electricity produced
39 by a renewable energy system, a person must submit to the Washington
40 State University extension energy program an application, including:

1 (a) An affidavit that the applicant has not previously received a
2 certification from the department under RCW 82.16.120 entitling the
3 applicant to receive annual incentive payments for electricity
4 generated by the renewable energy system at the same meter location
5 or is applying pursuant to the exception provided in section 4(4) of
6 this act;

7 (b) System operation data including global positioning system
8 coordinates, tilt, shading, and azimuth;

9 (c) Any other information the Washington State University
10 extension energy program deems necessary in determining eligibility
11 and incentive levels, administering the program, tracking progress
12 toward achieving the limits on program participation established in
13 RCW 82.16.130, or facilitating the review of the performance of the
14 tax preferences by the joint legislative audit and review committee,
15 as described in section 2 of this act; and

16 (d)(i) Except as provided in (d)(ii) of this subsection (7), the
17 date that the renewable energy system received its final electrical
18 inspection from the applicable local jurisdiction, as well as a copy
19 of the permit or, if the permit is available online, the permit
20 number.

21 (ii) The Washington State University extension energy program may
22 waive the requirement in (d)(i) of this subsection (7), accepting an
23 application and granting provisional certification prior to proof of
24 final electrical inspection. Provisional certification expires one
25 hundred eighty days after issuance, unless the applicant submits
26 proof of the final electrical inspection from the applicable local
27 jurisdiction or the Washington State University extension energy
28 program extends the certification, for a term or terms of thirty
29 days, due to extenuating circumstances.

30 (8) Incentive payments may not be authorized until the final
31 electrical inspection and executed interconnection agreement are
32 submitted to the Washington State University extension energy
33 program.

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

1 in subsection (12) of this section, subject to any applicable cap on
2 total annual payment provided in subsection (6) of this section.

3 (10) Certification is valid for ten years and may not be
4 retroactively changed except to correct later discovered errors that
5 were made during the original application or certification process.

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

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

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

14 (12) The Washington State University extension energy program
15 must determine the total incentive rate for a new renewable energy
16 system certification by adding to the base rate any applicable made-
17 in-Washington bonus rate. A made-in-Washington bonus rate is provided
18 for a renewable energy system or a community solar project with solar
19 modules made in Washington or with a wind turbine or tower that is
20 made in Washington. Both the base rates and bonus rate vary,
21 depending on the fiscal year in which the system is certified and the
22 type of renewable energy system being certified, as provided in the
23 following table:

24 Fiscal year	Base rate -	Base rate -	Base rate -	Made in
25 of system	residential-scale	commercial-scale	community	Washington
26 certification			solar	bonus
27 2017	\$0.12	\$0.07	\$0.11	\$0.05
28 2018	\$0.10	\$0.05	\$0.08	\$0.05
29 2019	\$0.08	\$0.03	\$0.06	\$0.04
30 2020	\$0.06	\$0.01	\$0.04	\$0.04

31 Certification of a renewable energy system entitles the recipient
32 to receive incentive payments for electricity generated for a period
33 of ten years from the date the system commences operation or the date
34 the system is certified, whichever date is later. For purposes of
35 this section, the Washington State University extension energy
36 program must define when a renewable energy system commences
37 operation and provide notice of such date to the recipient and the
38 utility serving the situs of the system.

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

3 (a) For community solar projects in any fiscal year that twenty-
4 five percent of available funds for credit that year under RCW
5 82.16.130 have been allocated to community solar projects; and

6 (b) For any additional renewable energy system served by a
7 utility, if certification is likely to result in incentive payments
8 by that utility exceeding the utility's available funds for credit
9 under RCW 82.16.130, taking into consideration funds allocated for
10 participants under RCW 82.16.120 and section 4 of this act.

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

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

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

36 (17) The manufacturer of a renewable energy system component
37 subject to a bonus rate under subsection (12) of this section may
38 apply to the Washington State University extension energy program to
39 receive a determination of eligibility for such bonus rates. The
40 Washington State University extension energy program must publish a

1 list of components that have been certified as eligible for such
2 bonus rates. The Washington State University extension energy program
3 may assess an equipment certification fee to recover its costs.

4 (18) Annually, the utility, or the customer at the utility's
5 option, must report to the Washington State University extension
6 energy program, by mail or electronically, the amount of gross
7 kilowatt-hours generated by each renewable energy system since the
8 prior annual report.

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

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

25 (20) The utility must issue the incentive payment within thirty
26 days of receipt of the information required under subsection (19)(a)
27 of this section from the Washington State University extension energy
28 program. The utility must resume the incentive payments withheld
29 under subsection (19)(b) of this section within thirty days of
30 receiving notice from the Washington State University extension
31 energy program that the claim has been demonstrated accurate and
32 valid and payment should be resumed.

33 (21) Beginning January 1, 2017, the Washington State University
34 extension energy program must post on its web site and update at
35 least monthly a report, by utility, of:

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

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

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

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

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

24 (25) No certification may be issued under this section after June
25 30, 2020.

26 (26) The Washington State University extension energy program
27 must establish a one-time fee for applications under this section of
28 seventy-five dollars per applicant, or, in the case of a community
29 solar project, per participant, by which it must recover its costs in
30 administering the incentive program. Within five days of the
31 effective date of this section, the Washington State University
32 extension energy program must notify the governor and the department
33 of revenue if it determines that it is unable to implement the
34 program as provided in this section within the funds provided by the
35 seventy-five dollar fee. Upon receipt of such determination, the
36 department of revenue must, in consultation with the department of
37 commerce, issue a request for a proposal to identify an entity that
38 will assume the responsibilities otherwise delegated to the
39 Washington State University extension energy program under this
40 section, within the funds provided by the fee.

1 (27) The Washington State University extension energy program
2 may, through a public process, develop any program requirements and
3 policies necessary for the administration of this section, RCW
4 82.16.120, and sections 2, 6, and 8 of this act. The department is
5 authorized, in consultation with the Washington State University
6 extension energy program, to adopt any rules necessary for
7 administration of the program.

8 (28) Applications, certifications, requests for incentive
9 payments under this section, and the information contained therein
10 are not deemed tax information under RCW 82.32.330 and are subject to
11 disclosure.

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

14 (1) Beginning July 1, 2016, a utility or nonprofit organization
15 may organize and administer a community solar project as provided in
16 this section.

17 (2) A community solar project must have a direct current
18 nameplate capacity that is no more than five hundred kilowatts and
19 must have at least ten participants, each of which is a customer of
20 the utility providing service at the situs of the community solar
21 project.

22 (3) A utility or nonprofit administrator of a community solar
23 project must administer the project in a transparent manner that
24 allows for fair and nondiscriminatory opportunity for participation
25 by utility customers.

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

32 NEW SECTION. **Sec. 9.** (1) **Findings.** The legislature finds that a
33 convenient, safe, and environmentally sound system for the recycling
34 of solar modules, minimization of hazardous waste, and recovery of
35 commercially valuable materials must be established. The legislature
36 further finds that the responsibility for this system must be shared
37 among all stakeholders, with manufacturers financing the takeback and
38 recycling system.

1 (2) **Program guidance, review, and approval.** (a) The department
2 must develop guidance for a solar module stewardship and takeback
3 program to guide manufacturers in preparing and implementing a self-
4 directed program to ensure the convenient, safe, and environmentally
5 sound takeback and recycling of solar modules and their components
6 and materials.

7 (b) By January 1, 2017, the department must establish a process
8 to develop guidance for solar module stewardship plans by working
9 with manufacturers, stewardship organizations, and other stakeholders
10 on the content, review, and approval of stewardship plans. The
11 department's process must be fully implemented and stewardship plan
12 guidance completed by January 1, 2018.

13 (3) **Stewardship organization as agent of manufacturer.** A
14 stewardship organization may be designated to act as an agent on
15 behalf of a manufacturer or manufacturers in operating and
16 implementing the stewardship program required under this chapter. Any
17 stewardship organization that has obtained such designation must
18 provide to the department a list of the manufacturers and brand names
19 that the stewardship organization represents within sixty days of its
20 designation by a manufacturer as its agent, or within sixty days of
21 removal of such designation.

22 (4) **Stewardship plans.** Each manufacturer must prepare and submit
23 a stewardship plan to the department by the later of January 1, 2019,
24 or within thirty days of its first sale of a solar module in or into
25 the state.

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

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

32 (ii) Accept all solar modules sold in or into the state after
33 July 1, 2016;

34 (iii) Describe how the program will minimize the release of
35 hazardous substances into the environment and maximize the recovery
36 of other components, including rare earth elements and commercially
37 valuable materials;

38 (iv) Provide for takeback of solar modules at locations that are
39 within the region of the state in which the solar modules were used
40 and are as convenient as reasonably practicable, and if no such

1 location within the region of the state exists, include an
2 explanation for the lack of such location;

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

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

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

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

19 (5) **Plan approval.** The department shall approve a stewardship
20 plan if it determines the plan addresses each element outlined in the
21 department's guidance.

22 (6) **Annual report.** (a) Beginning April 1, 2021, and by April 1st
23 in each subsequent year, a manufacturer, or its designated
24 stewardship organization, must provide to the department a report for
25 the previous calendar year that documents implementation of the plan
26 and assesses achievement of the metrics established in subsection
27 (4)(a)(vi) of this section.

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

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

34 (7) **Enforcement.** Beginning January 1, 2020, no manufacturer may
35 sell or offer for sale a solar module in or into the state unless the
36 manufacturer has submitted to the department a stewardship plan and
37 received plan approval. The department shall send a written warning
38 to a manufacturer that is not participating in a plan. The written
39 warning must inform the manufacturer that it must submit a plan or
40 participate in a plan within thirty days of the notice. The

1 department may assess a penalty of up to ten thousand dollars for
2 each sale of a solar module in or into the state that occurs after
3 the initial written warning. A manufacturer may appeal a penalty
4 issued under this section to the superior court of Thurston county
5 within one hundred eighty days of receipt of the notice.

6 (8) **Fee.** The department may collect a flat fee from participating
7 manufacturers to recover costs associated with the plan guidance,
8 review, and approval process described in subsection (2)(a) of this
9 section. Annual implementation costs for the program may be recovered
10 by charging every manufacturer an annual fee calculated by dividing
11 department administrative costs by the manufacturer's pro rata share
12 of the Washington state solar module sales in the most recent
13 preceding calendar year, based on best available information. The
14 sole purpose of assessing the fees authorized in this subsection is
15 to predictably and adequately fund the department's costs of
16 administering the solar module recycling program.

17 (9) **Account.** The solar module recycling account is created in the
18 custody of the state treasurer. All fees collected from manufacturers
19 under this chapter must be deposited in the account. Expenditures
20 from the account may be used only for administering this chapter.
21 Only the director of the department or the director's designee may
22 authorize expenditures from the account. The account is subject to
23 the allotment procedures under chapter 43.88 RCW, but an
24 appropriation is not required for expenditures. Funds in the account
25 may not be diverted for any purpose or activity other than those
26 specified in this section.

27 (10) **Rule making.** The department may adopt rules as necessary for
28 the purpose of implementing, administering, and enforcing this
29 chapter.

30 (11) **Stakeholder recommendations on orphan modules.** By December
31 10, 2016, the house committee with jurisdiction on energy issues must
32 convene and complete a stakeholder process to develop recommendations
33 about how to equitably ensure financing and takeback and recycling
34 of: (a) Solar modules sold in or into the state prior to July 1,
35 2016; and (b) solar modules of any manufacturer that is no longer
36 solvent or doing business when the stewardship obligations created in
37 this section go into effect.

38 (12) **Definitions.** For purposes of this section the following
39 definitions apply:

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

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

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

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

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

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

17 (v) Imports or has imported a solar module into the United States
18 that is sold in or into this state. However, if the imported solar
19 module is manufactured by any person with a presence in the United
20 States meeting the criteria of manufacturer under (a) through (d) of
21 this subsection, that person is the manufacturer;

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

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

28 (c) "Rare earth element" means lanthanum, cerium, praseodymium,
29 neodymium, promethium, samarium, europium, gadolinium, terbium,
30 dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium,
31 or scandium.

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

35 (e) "Solar module" means the smallest nondivisible,
36 environmentally protected, essentially planar assembly of solar
37 cells, or other solar collector technology and ancillary parts
38 intended to generate direct current power under sunlight, including
39 but not limited to interconnections, terminals, and protective
40 devices such as diodes.

1 (f) "Stewardship plan" means the plan developed by a manufacturer
2 or its designated stewardship organization for a self-directed
3 stewardship program.

4 (g) "Stewardship program" means the activities conducted by a
5 manufacturer or a stewardship organization to fulfill the
6 requirements of this chapter and implement the activities described
7 in its stewardship plan.

8 (h) "Stewardship organization" means an organization designated
9 by a manufacturer or manufacturers to act as an agent on behalf of
10 the manufacturer or manufacturers in operating and implementing a
11 stewardship program.

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

14 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
15 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
16 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
19 exhaust, or landfill gas as the principal source of power, or to
20 sales of or charges made for labor and services rendered in respect
21 to installing such machinery and equipment, are eligible for an
22 exemption as provided in this section, but only if the purchaser
23 develops with such machinery, equipment, and labor a facility capable
24 of generating not less than one thousand watts of electricity.

25 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
26 levied by RCW 82.08.020 does not apply to the sale of machinery and
27 equipment described in (a) of this subsection that are used directly
28 in generating electricity or to sales of or charges made for labor
29 and services rendered in respect to installing such machinery and
30 equipment.

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

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

38 (a) "Biomass energy" includes: (i) By-products of pulping and
39 wood manufacturing process; (ii) animal waste; (iii) solid organic

1 fuels from wood; (iv) forest or field residues; (v) wooden demolition
2 or construction debris; (vi) food waste; (vii) liquors derived from
3 algae and other sources; (viii) dedicated energy crops; (ix)
4 biosolids; and (x) yard waste. "Biomass energy" does not include wood
5 pieces that have been treated with chemical preservatives such as
6 creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old
7 growth forests; or municipal solid waste.

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

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

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

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

29 (3)(a) Machinery and equipment is "used directly" in generating
30 electricity by wind energy, solar energy, biomass energy, tidal or
31 wave energy, geothermal resources, anaerobic digestion, technology
32 that converts otherwise lost energy from exhaust, or landfill gas
33 power if it provides any part of the process that captures the energy
34 of the wind, sun, biomass energy, tidal or wave energy, geothermal
35 resources, anaerobic digestion, technology that converts otherwise
36 lost energy from exhaust, or landfill gas, converts that energy to
37 electricity, and stores, transforms, or transmits that electricity
38 for entry into or operation in parallel with electric transmission
39 and distribution systems.

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

7 (4)(a) A purchaser claiming an exemption in the form of a
8 remittance under subsection (1)(c) of this section must pay the tax
9 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
10 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
11 may then apply to the department for remittance in a form and manner
12 prescribed by the department. A purchaser may not apply for a
13 remittance under this section more frequently than once per quarter.
14 The purchaser must specify the amount of exempted tax claimed and the
15 qualifying purchases for which the exemption is claimed. The
16 purchaser must retain, in adequate detail, records to enable the
17 department to determine whether the purchaser is entitled to an
18 exemption under this section, including: Invoices; proof of tax paid;
19 and documents describing the machinery and equipment.

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

25 (5) The exemption provided by this section expires June 30, 2016,
26 as it applies to: (a) Machinery and equipment that is used directly
27 in the generation of electricity using solar energy and capable of
28 generating no more than five hundred kilowatts of electricity; or (b)
29 sales of or charges made for labor and services rendered in respect
30 to installing such machinery and equipment.

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

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

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

1 more than ten kilowatts of electricity or producing not more than
2 three million British thermal units per day and provides the seller
3 with an exemption certificate in a form and manner prescribed by the
4 department. The seller must retain a copy of the certificate for the
5 seller's files. For sellers who electronically file their taxes, the
6 department must provide a separate tax reporting line for exemption
7 amounts claimed by a buyer under this section.

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

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

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

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

28 (d) Machinery and equipment is "used directly" in producing
29 thermal heat with solar energy if it uses a solar collector or a
30 solar hot water system that (i) meets the certification standards for
31 solar collectors and solar hot water systems developed by the solar
32 rating and certification corporation; or (ii) is determined by the
33 Washington State University extension whether a solar collector or
34 solar hot water system is an equivalent collector or system.

35 (3) The exemption provided by this section for the sales of
36 machinery and equipment that is used directly in the generation of
37 electricity using solar energy, or for sales of or charges made for
38 labor or services rendered in respect to installing such machinery
39 and equipment, expires June 30, 2016.

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

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

3 (1)(a) Except as provided in RCW 82.12.963, consumers who have
4 paid the tax imposed by RCW 82.12.020 on machinery and equipment used
5 directly in generating electricity using fuel cells, wind, sun,
6 biomass energy, tidal or wave energy, geothermal resources, anaerobic
7 digestion, technology that converts otherwise lost energy from
8 exhaust, or landfill gas as the principal source of power, or to
9 sales of or charges made for labor and services rendered in respect
10 to installing such machinery and equipment, are eligible for an
11 exemption as provided in this section, but only if the purchaser
12 develops with such machinery, equipment, and labor a facility capable
13 of generating not less than one thousand watts of electricity.

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

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

25 (2)(a) A person claiming an exemption in the form of a remittance
26 under subsection (1)(c) of this section must pay the tax imposed by
27 RCW 82.12.020 and all applicable local use taxes imposed under the
28 authority of chapters 82.14 and 81.104 RCW. The consumer may then
29 apply to the department for remittance in a form and manner
30 prescribed by the department. A consumer may not apply for a
31 remittance under this section more frequently than once per quarter.
32 The consumer must specify the amount of exempted tax claimed and the
33 qualifying purchases or acquisitions for which the exemption is
34 claimed. The consumer must retain, in adequate detail, records to
35 enable the department to determine whether the consumer is entitled
36 to an exemption under this section, including: Invoices; proof of tax
37 paid; and documents describing the machinery and equipment.

38 (b) The department must determine eligibility under this section
39 based on the information provided by the consumer, which is subject
40 to audit verification by the department. The department must on a

1 quarterly basis remit exempted amounts to qualifying consumers who
2 submitted applications during the previous quarter.

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

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

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

8 (a) To machinery and equipment used directly in the generation of
9 electricity using solar energy and capable of generating no more than
10 five hundred kilowatts of electricity, or to sales of or charges made
11 for labor and services rendered in respect to installing such
12 machinery and equipment, when first use within this state of such
13 machinery and equipment, or labor and services, occurs after June 30,
14 2016; and

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

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

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

23 (1) The provisions of this chapter do not apply with respect to
24 machinery and equipment used directly in generating not more than ten
25 kilowatts of electricity or producing not more than three million
26 British thermal units per day using solar energy, or to the use of
27 labor and services rendered in respect to installing such machinery
28 and equipment.

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

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

31 (a) To the use of machinery and equipment used directly in the
32 generation of electricity using solar energy, or to the use of labor
33 and services rendered in respect to installing such machinery and
34 equipment, when first use within this state of such machinery and
35 equipment, or labor and services, occurs after June 30, 2016; and

36 (b) To the use of any machinery or equipment used directly in
37 producing thermal heat using solar energy, or to the use of labor and
38 services rendered in respect to installing such machinery or

1 equipment, when first use within this state of such machinery and
2 equipment, or labor and services, occurs after June 30, 2018.

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

4 NEW SECTION. **Sec. 14.** Section 9 of this act constitutes a new
5 chapter in Title 70 RCW.

6 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect immediately.

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