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**HOUSE BILL 1927**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Fey and Smith

AN ACT Relating to distributed generation; amending RCW 82.16.120, 80.28.005, 82.08.963, 82.12.963, 82.08.962, 82.12.962, 80.60.005, 80.60.020, 80.60.030, and 80.60.040; adding a new section to chapter 82.16 RCW; adding new sections to chapter 80.28 RCW; adding a new chapter to Title 80 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Consumer-owned utility" has the same meaning as defined in RCW 19.280.020.

(2) "Customer generator" means a residential or commercial customer of an electric utility who owns a solar energy system, irrespective of whether the ownership is subject to a security interest, where the solar energy system is:

(a) Located on the customer's premises, irrespective of whether the premises are leased or owned by the customer;

(b) Connected to the customer's wiring on the customer's side of a meter interconnecting the solar energy system with the utility grid; and

(c) Sized to meet all or a portion of the customer's load.

(3) "Electric utility" has the same meaning as provided in RCW 80.28.005. "Electric utility" does not include the subsidiary or affiliate of an electric utility, where such a subsidiary or affiliate must be registered as a solar energy service company with the commission, as provided in chapter 80.28 RCW.

(4) "Electrical company" has the same meaning as defined in RCW 80.04.010.

(5) "Meter" means an electricity production measurement device.

(6) "Nameplate capacity" means the direct current nameplate capacity, representing the power output of the solar energy system under ideal conditions.

(7) "Nonprofit organization" means an entity that is exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2015.

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

(9) "Program administrator" means the state agency, to be designated by the governor, with responsibility for implementing the solar production incentive program created in this chapter.

(10) "Solar energy service company" has the same meaning as defined in RCW 80.28.005.

(11) "Solar energy services" has the same meaning as defined in RCW 80.28.005.

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

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

NEW SECTION. **Sec.**  (1) A solar production incentive program is created within the program administrator for the purposes of:

(a) Increasing installation of solar energy systems in the state, with the goals of achieving one hundred fifty megawatts of additional installed solar power nameplate capacity statewide by 2024;

(b) Encouraging broader market participation; and

(c) Facilitating development of a solar industry whose manufacturing and installation practices are both economically and environmentally sustainable.

(2)(a) Each electric utility providing service to retail residential or commercial customers in Washington may elect to participate or terminate participation in the solar production incentive program at any time, consistent with the requirements of this section and the rules, policies, and procedures of the program administrator.

(b) A utility's election to terminate participation in the solar production incentive program does not relieve the utility's obligations with respect to solar energy systems already certified during the utility's participation in the program.

(3)(a) Beginning January 1, 2016, and until December 31, 2023, a utility customer, utility, or nonprofit organization may apply to the program administrator for certification to receive, from the utility to which an eligible solar energy system is interconnected, an annual production incentive payment for each kilowatt-hour of alternating current electricity produced by the solar energy system during each of the first ten years after the system commences operation, at a rate per kilowatt-hour established at the time of certification.

(b) A system commences operation on the date of system certification under this subsection (3) or the date of issuance of the final electrical permit for the system, whichever comes last.

(c) The incentive rate that the applicant is eligible to receive varies across five program types, which vary based on the ownership model and scale of the solar energy system, as provided in sections 3 through 7 of this act.

(d) The incentive rate an applicant receives at the time of certification must remain unchanged each year that the applicant is eligible to receive incentive payments, unless otherwise provided by law.

(4) The program administrator may grant certification to the applicant if the applicant meets the eligibility requirements established in sections 1 through 8 of this act. Certification by the program administrator is subject to approval by the utility and contingent upon completion of a valid interconnection agreement for the renewable energy system with the utility serving the situs of the system.

(5) No person may receive an incentive payment under this section for electricity generated by a solar energy system located at the same residential address as a renewable energy system that received incentive payments under RCW 82.16.120. Participation in the incentive program under RCW 82.16.120 does not disqualify a person from receiving payments under this section for a solar energy system located at a different address.

(6) The program administrator, in consultation with the department of revenue, shall determine the form and manner of the certification application. The program administrator may establish and modify application fees, which may vary by project size or type.

(7)(a) The program administrator, in consultation with the attorney general and the commission, shall develop a template for ensuring that customers receive standard consumer information regarding financial terms and the respective rights and responsibilities of all parties involved in a contract for the sale or installation of a solar energy system or the provision of solar energy services.

(b) The financial terms specified in the template should include those terms as deemed reasonably necessary for the customer to understand and make an informed decision to enter the business deal, such as:

(i) Monthly or annual production performance guarantee or range of performance;

(ii) System size;

(iii) Whether there is a down payment and, if so, the amount;

(iv) Monthly payments or cost per kilowatt-hour produced;

(v) Length of contract term;

(vi) Escalation rates or schedule of payment amounts; and

(vii) Total expenditure or range of expenditures, or effective annual interest rate, over the term of the agreement.

(c) Rights and responsibilities specified should include, but are not limited to, a customer's rights and responsibilities when selling the solar energy system as part of a sale of real property, as described in section 18 of this act, including responsibility for system removal costs, disposal of the system, and remaining monthly payments.

(d) The template must be filled out by any solar installation company that contracts with a customer to install a solar energy system, and by any solar energy system owner who enters a consumer contract with the customer for solar energy services, whether the owner is a solar energy service company or an electric utility.

(e) The applicant must submit the completed template or templates with the certification application.

(8) Nothing in this chapter, including potential eligibility for production incentives of systems more than one hundred kilowatts in nameplate capacity, may be construed as altering the eligibility of a solar energy system for net metering under chapter 80.60 RCW. For solar energy systems with a nameplate capacity of one hundred kilowatts or greater that are subject to requirements for qualifying facilities established by the Public Utility Regulatory Policies Act (16 U.S.C. chapter 46, Sec. 2601 et seq.), as amended as of January 1, 2015, an applicant is not eligible to receive certification under this section unless the applicant demonstrates compliance with any requirements to which the solar energy facility is subject and not exempt, including providing a copy of any required power purchase agreement with the utility.

(9) At the time of certification, the program administrator shall inform the applicant and the utility:

(a) That certification is subject to approval by the utility, including completion of a valid interconnection agreement with the utility;

(b) That the applicant is encouraged to consult with the utility serving the premises early in the application process, to determine the utility's requirements for interconnection and criteria for customer participation in the incentive program;

(c) Of the rate of incentive payment at which the applicant is entitled to receive production payments as provided in sections 3 through 7 of this act;

(d) Whether the solar energy system qualifies to receive the additional incentive for "clean made" solar modules;

(e) Whether the utility has opted to perform and submit to the program administrator the annual meter reading, or whether this is a responsibility of the applicant, and, if the latter, of the date on which the meter reading must take place;

(f) Of any other steps the applicant must take in order to claim the annual incentive provided pursuant to the certification; and

(g) That the certification is valid for a system that is placed into service within six months of the certification notice provided under this subsection (9).

(10) Notice of certification must be issued to the applicant, the utility, and the department of revenue within thirty days of the program administrator's receipt of a complete application.

(11) Applications, certifications, and annual payments made under this section are public records subject to chapter 42.56 RCW and are not tax information for purposes of RCW 82.32.330(3).

(12)(a) The solar energy system must commence operation and be placed into service within six months of the system certification. If an applicant who has received certification for a solar energy system is unable to place the system into service within the six-month period, the applicant must apply for a new certification and the certification may reflect lower per kilowatt-hour incentive rates effective at the time of the later certification.

(b) The utility must notify the program administrator of the date that a certified solar energy system commences operation, within thirty days of that date.

(13) Except as provided in subsection (14) of this section, the applicant, once certified, must make the annual request for incentive payment in a form and manner determined by the program administrator.

(a) The annual request must include at a minimum:

(i) A report of the annual alternating current electricity production of the solar energy system, as measured in gross kilowatt-hours and as determined by a meter connected to the solar energy system; and

(ii) Any other information required by the program administrator for monitoring progress in reaching the program goals and funding limits established under this chapter.

(b) The program administrator shall determine the amount of annual incentive payable for each request and shall periodically issue to each utility the list of requests and the applicable annual incentive payments to be made by the utility. The utility must issue the incentive payment to its customer or credit the customer's account within thirty days of receiving the list from the program administrator.

(14) A utility may notify the program administrator that, in lieu of the process described in subsection (13) of this section, the utility opts to perform the required meter reading and determine annual payments based on this meter reading.

(a) A utility adopting the process described in this subsection (14) shall provide the program administrator a description of the utility's alternate process, including the timeline and schedule for issuing payments to participants or crediting participants' utility bills.

(b) The utility shall determine who will perform the annual meter read, determine annual payments based on the rates established in the certification, and, periodically and no less than annually, submit the meter readings and payment information to the program administrator.

(c) The program administrator shall ensure that a description of the utility's process is included with any certifications issued to a customer of that utility.

(d) Annual incentive payments must be issued in a timely manner and in accordance with the process description provided to the program administrator.

(15) The program administrator shall create a publicly available web site and shall make information available to the public including, but not limited to:

(a) A list of utilities that have elected to participate in the solar production incentive program;

(b) Progress toward achieving the desired installation goal of one hundred fifty megawatts cumulative solar energy system nameplate capacity;

(c) The amount of nameplate capacity available that has not yet been committed to existing participants and remains available for new participants in the program;

(d) For each utility participating in the program, the following information: The number of solar energy systems installed under sections 3 through 7 of this act, installed system nameplate capacity, and installed system electricity production data; and

(e) Any other information deemed necessary to facilitate market participation and notify participants and prospective participants of pending changes in the incentive rates available.

(16)(a) The program administrator shall, in consultation with the department of commerce, develop technical specifications and guidelines to ensure consistent determination of whether the applicant is entitled to the additional "clean made" solar incentive payments.

(b) A solar energy system is eligible for an additional "clean made" solar incentive payment, as provided in section 3, 4, 6, or 7 of this act, only if each solar photovoltaic module in the solar energy system has been manufactured with clean energy.

(c) For the purposes of this subsection:

(i) "Clean energy" means that the actual or imputed source of electricity used by the manufacturer in manufacturing the module has a carbon-free fuel mix percentage that is no less than forty-five percent; and

(ii) "Fuel mix" has the meaning provided in RCW 19.29A.010.

(d) A manufacturer or applicant may obtain a determination from the program administrator that a solar energy system has been manufactured with clean energy upon submitting sufficient documentation to demonstrate that the fuel mix of the electricity used in manufacturing the system's solar modules meets the standard specified in (c) of this subsection. The program administrator must notify the applicant whether the program administrator already has sufficient documentation to make this determination or requires additional fuel mix disclosure documentation.

(e) Any technical specifications or guidelines developed under this section must be made publicly available online.

(17) Certifications issued under this section follow the solar energy system and are transferrable to a utility customer who purchases an existing solar energy system as part of a transfer of property ownership, provided that the utility customer purchasing the system completes an interconnection application and agreement with the utility and submits a copy of this agreement to the program administrator.

(18) Upon determination that solar energy systems with cumulative nameplate capacity of one hundred fifty megawatts have been certified under this chapter, the program administrator shall cease to issue new certifications.

(19) By October 31st each year, the program administrator shall report to the legislature on the utilization of the production incentive, average installed system costs, and any recommendations that would improve the administration and effectiveness of the program.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2016, the program administrator may certify a customer generator as eligible to receive a residential-scale solar production incentive for alternating current electricity generated by a solar energy system installed on the customer's side of a utility meter that has a nameplate capacity of ten kilowatts or less, as provided by this section.

(2) For the first twenty megawatts of solar energy system nameplate capacity cumulatively certified under this section:

(a) The incentive rate is twenty cents per kilowatt-hour.

(b) An additional "clean made" incentive payment of ten cents per kilowatt-hour is available if the program administrator determines that the solar energy system meets the technical specifications and guidelines established in section 2(16) of this act.

(3) After twenty megawatts and until forty megawatts of nameplate capacity have been cumulatively certified under this section:

(a) The program administrator may establish an incentive rate for new certifications equal to or less than the rate described in subsection (2)(a) of this section, as provided in section 8 of this act.

(b) An additional "clean made" incentive payment of five cents per kilowatt-hour is available if the program administrator determines that the solar energy system meets the technical specifications and guidelines established in section 2(16) of this act.

(4) After forty megawatts of nameplate capacity have been certified in this section:

(a) The program administrator may establish an incentive rate equal to or less than the rate described in subsection (2)(a) of this section, as provided in section 8 of this act.

(b) No additional "clean made" incentive payment may be made available.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2016, the program administrator may certify a customer generator as eligible to receive a commercial-scale solar production incentive for alternating current electricity generated by a solar energy system installed on the customer's side of a utility meter with a nameplate capacity that is more than ten kilowatts and no more than two hundred kilowatts, as provided by this section.

(2) For the first twenty megawatts of a solar energy system's nameplate capacity cumulatively certified under this section:

(a) The incentive rate for solar energy systems of nameplate capacity more than ten kilowatts and up to fifty kilowatts is sixteen cents per kilowatt-hour. An additional "clean made" incentive payment of twelve cents per kilowatt-hour is available if the program administrator determines that the solar energy system meets the technical specifications and guidelines established in section 2(16) of this act.

(b) The incentive rate for solar energy systems of nameplate capacity fifty kilowatts or greater is fourteen cents per kilowatt-hour. An additional "clean made" incentive payment of seven cents per kilowatt-hour is available if the program administrator determines that the solar energy system meets the technical specifications and guidelines established in section 2(16) of this act.

(3) After twenty megawatts of nameplate capacity have been cumulatively certified under this section, the program administrator may establish an incentive rate for new certifications equal to or less than the rate described in subsection (2) of this section, as provided in section 8 of this act.

NEW SECTION. **Sec.**  (1)(a) Beginning January 1, 2016, the program administrator may certify a customer of a utility as eligible to receive a solar energy service company production incentive payment from that utility for alternating current electricity produced by a solar energy system with a nameplate capacity that is no more than two hundred kilowatts installed on the customer's side of a utility meter and owned by a solar energy service company, as provided by this section.

(b) The solar energy service company must be registered with the commission as required in section 13 of this act.

(2) The incentive under this section is payable to the utility customer, but may be voluntarily assigned by the utility customer to the solar energy service company through a contractual agreement between the customer and the solar energy service company. Such an agreement must meet any applicable conditions established by the commission under sections 13, 14, and 16 of this act.

(3) For the first twenty megawatts of solar energy system nameplate capacity cumulatively certified under this section:

(a) The incentive rate for solar energy systems of nameplate capacity up to fifty kilowatts is eleven cents per kilowatt-hour.

(b) The incentive rate for solar energy systems of nameplate capacity fifty kilowatts or more is nine cents per kilowatt-hour.

(4) After twenty megawatts of nameplate capacity have been cumulatively certified under this section, the program administrator may establish rates equal to or less than the rates described in subsection (3) of this section, as provided in section 8 of this act.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2016, a utility or nonprofit organization is eligible to organize and administer a community solar project as provided in this section.

(a) The community solar project must have a minimum number of participants, who must be customers of the utility providing service at the situs of the project:

(i) For solar energy systems less than one hundred kilowatts nameplate capacity, there must be a minimum of ten participants.

(ii) For solar energy systems one hundred kilowatts or greater, there must be at least one participant per ten kilowatts of nameplate capacity.

(b) The solar energy system must have a nameplate capacity that is no more than two hundred kilowatts.

(c) The utility or nonprofit organization must organize and administer each community solar project in a transparent manner that allows for fair and nondiscriminatory opportunity for participation by utility customers.

(2) If the community solar project is organized and administered by a nonprofit organization, the nonprofit organization must submit a project proposal, including a business plan, to the program administrator.

(a) Before December 31, 2015, the program administrator must publish guidelines that the program administer will use in determining eligibility of projects submitted under this subsection.

(b) In determining whether a project submitted under this subsection is eligible, the program administrator must consider the extent to which the project will: Expand access in the solar marketplace to a greater range of participants, increase the cost‑effectiveness of the state investment, afford a benefit to low‑income individuals, and achieve any other objectives specified in the guidelines and consistent with the purposes of this chapter.

(3) The electric utility or nonprofit organization may deduct from the incentive payments distributed to participants a reasonable fee to cover costs incurred in organizing and administering the community solar program. An electric utility may also use a portion of the total incentive payment provided under this section to subsidize programs that broaden access to solar power or ownership of solar energy systems by low‑income customers, if so authorized through a public process by the commission or governing body, and if project participants prior to making the commitment to participate in the project have been given clear and conspicuous notice that a portion of the incentive payment will be used for this purpose.

(4) The purpose of the community solar program is to facilitate broad community investment and access to solar power by utility customers who might otherwise not be able to directly invest in or access the benefits of solar power.

(a) A utility or nonprofit organization participating in a community solar project is encouraged to consult with low-income housing providers to identify projects reasonably expected to contribute to broader community participation in the benefits conferred by this tax preference.

(b) In consultation with the program administrator, each electric utility organizing and administering a community solar project must establish and publish procedures to ensure that the electric utility's project is consistent with the purpose of this section. The procedures of an investor-owned utility must be approved by the commission.

(5) For the first twenty megawatts of solar energy system nameplate capacity cumulatively certified under this section:

(a) The incentive rate is thirty cents per kilowatt-hour of alternating current electricity produced by the solar energy system.

(b) An additional "clean made" incentive payment of fifteen cents per kilowatt-hour is available if the program administrator determines that the solar energy system meets the technical specifications and guidelines established in section 2(16) of this act.

(6) After twenty megawatts of nameplate capacity have been cumulatively certified under this section:

(a) The program administrator may establish an incentive rate equal to or less than the rate described in subsection (5)(a) of this section, as provided in section 8 of this act; and

(b) An additional "clean made" incentive payment of five cents per kilowatt‑hour is available until forty megawatts of nameplate capacity have been cumulatively certified under this section, if the program administrator determines that the solar energy system meets the technical specifications and guidelines established in section 2(16) of this act.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2016, the program administrator may certify an electric utility as eligible to receive a utility production incentive for alternating current electricity produced by a solar energy system with a nameplate capacity that is no more than five hundred kilowatts installed on the premises of a customer served by that utility, on the customer's side of a utility meter, and owned by the electric utility.

(2) This section does not apply to a system subject to a contract with a solar energy service company, which is only eligible to participate as provided in section 5 of this act.

(3)(a) For the first twenty megawatts of nameplate capacity cumulatively certified to electrical companies under this section and for the first twenty megawatts of nameplate capacity cumulatively certified to consumer-owned utilities under this section:

(i) The incentive rate for solar energy systems of nameplate capacity not more than ten kilowatts is twenty cents per kilowatt‑hour.

(ii) The incentive rate for solar energy systems of nameplate capacity more than ten kilowatts and up to fifty kilowatts is seventeen cents per kilowatt-hour.

(iii) The incentive rate for solar energy systems of nameplate capacity fifty kilowatts and up to two hundred kilowatts is nine cents per kilowatt-hour.

(iv) The incentive rate for solar energy systems of nameplate capacity of two hundred kilowatts and up to five hundred kilowatts is eleven cents per kilowatt-hour.

(b) After twenty megawatts of nameplate capacity of solar energy systems owned by electrical companies have been cumulatively certified under this section, the program administrator may establish an incentive rate for new certifications of electrical company-owned systems, equal to or less than the rate described in (a) of this subsection, as provided in section 8 of this act.

(c) After twenty megawatts of nameplate capacity of solar energy systems owned by consumer-owned utilities have been cumulatively certified under this section, the program administrator may establish an incentive rate for new certifications equal to or less than the rate described in (a) of this subsection, as provided in section 8 of this act.

(4) For the first twenty megawatts of nameplate capacity installed under this section, irrespective of whether the solar energy system is owned by an electrical company or a consumer‑owned utility, an additional "clean made" incentive payment is available if the program administrator determines that the solar energy system meets the technical specifications and guidelines established in section 2(16) of this act, depending on the nameplate capacity of the solar energy system, as follows:

(a) Ten cents per kilowatt-hour for solar energy systems up to fifty kilowatts;

(b) Eight cents per kilowatt-hour for solar energy systems at least fifty kilowatts and up to two hundred kilowatts; and

(c) Five cents per kilowatt-hour for solar energy systems two hundred kilowatts up to five hundred kilowatts.

NEW SECTION. **Sec.**  (1) After the specified amount of installed nameplate capacity is achieved in any of the five programs established in sections 3 through 7 of this act and periodically thereafter in the program administrator's discretion, the program administrator may propose and implement lower incentive rates for that program, as provided by this section.

(2) The program administrator may adjust the incentive rates for new certifications downward if the program administrator determines that such a downward adjustment will help achieve the purposes of this chapter. Such a determination must be made upon review and consideration of, at a minimum, the following information:

(a) Solar photovoltaic module and solar energy system market conditions and activity;

(b) Installed and net solar energy system costs;

(c) The rate of progress toward achieving the one hundred fifty megawatt target for solar energy systems installed under this chapter, with the objective of achieving this target relatively steadily across the eight years in which systems may be certified under this section;

(d) Actual and projected retail rates for electricity;

(e) Anticipated impact of changes in the availability of the federal investment tax credit; and

(f) Public comments received pursuant to a public process, as established in this section.

(3) The program administrator shall establish a public process that provides an opportunity for affected stakeholders to comment and submit information relevant to the determination described in subsection (2) of this section.

(4) The program administrator must adopt notice procedures reasonably calculated to provide notice to affected and interested individuals.

(5)(a) After the program administrator has developed proposed rate changes pursuant to the public process required in this section, the program administrator must provide notice of any proposed rate change to the relevant committees of the legislature.

(b) The program administrator may implement rate changes authorized under this section in new system certifications no sooner than ninety days after giving the required notice to the relevant legislative committees.

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

(1) Beginning January 1, 2016, a credit is allowed against taxes due under this chapter in an amount equal to incentive payments made in any fiscal year under sections 3 through 7 of this act. The credit must be taken in a form and manner as required by the department.

(2) The credit under this section for the fiscal year may not exceed the tax that would otherwise be due under this chapter.

(3) Refunds may not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(4) The right to earn tax credits under this section expires December 31, 2035. Credits may not be claimed after December 31, 2036.

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

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

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

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

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

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

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

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

(ii) The applicant's tax registration number;

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

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

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

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state;

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

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

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

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

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(l).

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

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

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

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

(ii) The applicant's tax registration number;

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

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

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)((~~(l)~~))(e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The department must not accept any new certifications under this section after November 30, 2015, or act upon these certifications after December 31, 2015. Any person that has been certified by the department to receive payments under this section by December 31, 2015, may continue to apply to receive payments as provided in this section until June 30, 2020. Applications pursuant to this subsection (10) must be disclosed to the program administrator, as defined in section 1 of this act, as authorized under RCW 82.32.330(3)(e).

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

The legislature finds that:

(1) Solar energy service companies are electrical companies and are subject to the jurisdiction of the commission.

(2) Traditional rate of return, rate-based regulation of solar energy service companies does not provide the most efficient and effective means of achieving the public policy goals of this state as declared in RCW 80.28.024, 80.28.074, and this section.

(3) The provision of solar energy services affects the public interest and requires the oversight of the commission in order to protect consumers. Nothing in this act precludes the office of the attorney general from exercising its statutory authority under chapter 19.86 RCW.

**Sec.**  RCW 80.28.005 and 1994 c 268 s 1 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~))The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bondable conservation investment" means all expenditures made by electrical, gas, or water companies with respect to energy or water conservation measures and services intended to improve the efficiency of electricity, gas, or water end use, including related carrying costs if:

(a) The conservation measures and services do not produce assets that would be bondable utility property under the general utility mortgage of the electrical, gas, or water company;

(b) The commission has determined that the expenditures were incurred in conformance with the terms and conditions of a conservation service tariff in effect with the commission at the time the costs were incurred, and at the time of such determination the commission finds that the company has proven that the costs were prudent, that the terms and conditions of the financing are reasonable, and that financing under this chapter is more favorable to the customer than other reasonably available alternatives;

(c) The commission has approved inclusion of the expenditures in rate base and has not ordered that they be currently expensed; and

(d) The commission has not required that the measures demonstrate that energy savings have persisted at a certain level for a certain period before approving the cost of these investments as bondable conservation investment.

(2) "Conservation bonds" means bonds, notes, certificates of beneficial interests in trusts, or other evidences of indebtedness or ownership that:

(a) The commission determines at or before the time of issuance are issued to finance or refinance bondable conservation investment by an electrical, gas or water company; and

(b) Rely partly or wholly for repayment on conservation investment assets and revenues arising with respect thereto.

(3) "Conservation investment assets" means the statutory right of an electrical, gas, or water company:

(a) To have included in rate base all of its bondable conservation investment and related carrying costs; and

(b) To receive through rates revenues sufficient to recover the bondable conservation investment and the costs of equity and debt capital associated with it, including, without limitation, the payment of principal, premium, if any, and interest on conservation bonds.

(4) "Finance subsidiary" means any corporation, company, association, joint stock association, or trust that is beneficially owned, directly or indirectly, by an electrical, gas, or water company, or in the case of a trust issuing conservation bonds consisting of beneficial interests, for which an electrical, gas, or water company or a subsidiary thereof is the grantor, or an unaffiliated entity formed for the purpose of financing or refinancing approved conservation investment, and that acquires conservation investment assets directly or indirectly from such company in a transaction approved by the commission.

(5) "Consumer contract" means the lease, power purchase agreement, loan, or other financial agreement between a solar energy service company and a customer by which the customer has obtained beneficial interest in a solar energy system that is not owned by the customer but is installed on the customer's side of the meter on property controlled by the customer.

(6) "Electric utility" means an electrical company regulated under this title, a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(7) "Solar energy services" means the provision of electricity generated by the system to the customer, and may include other services associated with the use of a solar energy system under a lease, power purchase agreement, loan, or other financial transaction. Such other services may include system monitoring and maintenance, warranty provisions, performance guarantees, and customer service.

(8)(a) "Solar energy service company" means an electrical company that owns a solar energy system on property controlled by a customer and that enters into an agreement with a customer to provide solar energy services.

(b) The following entities are not solar energy service companies:

(i) Commercial lending institutions that are regulated by the department of financial institutions and provide loans for the purchase of solar energy systems;

(ii) Companies engaged in retail sales of solar energy equipment that are not otherwise engaged in business as a solar energy service company; and

(iii) Electric utilities that offer solar energy services to their customers or members in conjunction with other utility services.

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

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) No solar energy service company, including an affiliate of an electric utility, may engage in business as a solar energy service company in this state without first registering with the commission. Engaging in business as a solar energy service company includes advertising, soliciting, offering, or entering into an agreement to own a solar energy system and provide solar energy services on property owned or controlled by a customer.

(2) The registration must be on a form prescribed by the commission and contain information that the commission may by rule require, but must include at a minimum: The name and address of the company; the name and address of the company's registered agent, if any; the company's universal business identification number; the name, address, and title of each officer or director; if the company is publicly traded, the company's most recent annual report filed with the United States securities and exchange commission; if not publicly traded, the company's current balance sheet; the company's latest annual report, if any; and a description of the services the company offers or intends to offer.

(3) The commission may reject an application that does not contain all information required by this section.

(4) The commission must take action to approve any application for registration within thirty days after receiving the application. The commission may approve an application with or without a hearing.

(5) The commission may charge solar energy service companies an application fee to recover the cost of processing applications for registration under this section.

(6) The commission may adopt rules that describe the manner by which it will register solar energy service companies, the companies' responsibilities for responding to customer complaints and disputes, annual reporting requirements, and the amount of application and regulatory fees.

(7) The commission may suspend or revoke a registration upon complaint by any interested party, or upon the commission's own motion after notice and opportunity for hearing, when the registered solar energy service company or its agent has repeatedly violated this chapter, the rules and regulations of the commission, or the laws of this state or of the United States.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) A solar energy service company is subject to minimal regulation concerning registration, disclosure of terms of services, and consumer protection. A solar energy service company is not subject to the regulatory requirements concerning rate regulation and furnishing of service for electrical companies in this title including, but not limited to, RCW 80.28.010, 80.28.020, 80.28.025, 80.28.050, 80.28.060, 80.28.065, 80.28.068, 80.28.075, 80.28.080, 80.28.090, 80.28.100, 80.28.110, and 80.28.120. Competition among solar energy service companies will serve the same purposes as economic regulation. The commission may waive any regulatory requirement under this title, except the requirements established under this section and sections 13 and 16 of this act, for a solar energy service company when the commission determines that competition will serve the same purposes as public interest regulation.

(2) A solar energy service company that is an affiliate of a utility may only enter a consumer contract with a customer of the utility with which the solar energy service company is affiliated.

(3) A solar energy service company must not engage in unfair or deceptive business practices in the provision or promotion of solar energy services. A solar energy service company must at a minimum:

(a) Keep its customer records available for inspection by the commission for five years;

(b) Cooperate with commission investigations of customer complaints; and

(c) Ensure that its consumer contracts meet the disclosure requirements established by this section, section 2(7)(b) of this act, and by commission rule.

(4) Consumer contracts must clearly state:

(a) The payment schedule and an estimate of the amount of periodic payments;

(b) Estimates of the total contract payments in the first year, the percentage contract payments increase each year, and the total amount the customer will pay over time;

(c) Any potential fees or penalties for late payments;

(d) A concise list of customer obligations beyond the monthly payments;

(e) An estimate of annual energy production for the term of the contract;

(f) A description of warranties provided;

(g) The manufacturer and model of all substantial system components;

(h) If applicable, a reference to the source of any information concerning historical or projected electricity prices;

(i) The customer's responsibility for making a regular payment to his or her electric utility at billed rates, in addition to a regular payment to the solar energy service company;

(j) The customer's responsibility for entering into necessary interconnection and net metering agreements with his or her electric utility; and

(k) The customer's options upon sale of his or her property, including the customer's right to obtain a release of liability under the consumer contract, upon assumption of the contract by a new property owner, and any other contract conditions as provided in section 18 of this act.

(5) Any consumer contract that includes terms limiting the customer's right to obtain a remedy by accessing a court or the customer's right to enter into class litigation must provide these terms on a separate contract page in bold and conspicuous print and require the customer to separately sign acknowledgment of the terms.

(6) Nothing in this section removes a solar energy service company's responsibility to ensure that its consumer contracts also meet the requirements of applicable state and federal laws.

(7) A solar energy service company may not include in a consumer contract a provision that limits a consumer's ability to seek damages. A provision limiting damages is void as against public policy.

(8) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) Each solar energy service company and each electrical company shall provide to the commission, within thirty days of its issuance, a copy of every judgment or arbitration decision in an action alleging a violation of the consumer protections afforded by sections 2, 13, 14, and 16 of this act or chapter 19.86 RCW.

(2) Each consumer-owned utility shall provide to the attorney general, within thirty days of its issuance, a copy of every judgment or arbitration decision in an action alleging a violation of the consumer protections afforded by sections 2, 13, 14, and 16 of this act or chapter 19.86 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

For the purpose of RCW 19.86.170, actions or transactions of solar energy service companies are not deemed otherwise permitted, prohibited, or regulated by the commission.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

In addition to the penalties provided in this title, a violation of chapter . . ., Laws of 2015 (this act) constitutes an unfair or deceptive act in trade or commerce in violation of chapter 19.86 RCW, the consumer protection act. Acts in violation of section 13 or 14 of this act are not reasonable in relation to the development and preservation of business, and constitute matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec.**  (1)(a) Unless the seller and buyer agree otherwise, in the event of sale or transfer of real property subject to a consumer contract for solar energy services, if a memorandum reflecting the essential terms of the consumer contract has been recorded with the county auditor, the remainder of the consumer contract must be assumed by the buyer.

(b) For purposes of this section, essential terms include any terms so designated by commission rule issued under authority of chapter 80.28 RCW.

(2) Upon transfer of ownership of real property subject to the consumer contract, the buyer assuming the consumer contract continues to qualify to receive solar production incentive payments and other applicable benefits of the contract, subject to the requirements that the buyer must complete an interconnection application and agreement with the utility serving the situs of the solar energy system and must provide a copy of this agreement to the program administrator, as provided in section 2(16) of this act.

(3) Thirty days prior to closing, the seller of real property subject to a consumer contract shall notify the utility and the solar energy service company of whether the buyer will be assuming the contract. Within seven days of receipt of the seller's notice:

(a) If notified that the buyer will be assuming the contract, the solar energy service company shall provide the documentation necessary for assumption of the contract by the buyer; or

(b) If notified that the buyer will not be assuming the contract, the solar energy service company shall provide documentation of the procedures for termination of the contract and removal of the solar energy system.

(4) Within twenty-one days of receipt of the seller's written notice that the buyer will not be assuming the contract, the solar energy service company must remove the solar energy system from the real property.

(5) At the termination of a consumer contract, whether at the end of the contract term or earlier, the solar energy service company is responsible for the removal of the solar energy system from the property. The solar energy service company may recover the cost of removal only as specified in the contract and noted in the recorded memorandum.

(6) A consumer contract may not grant a utility or solar energy service company any authority to approve, disapprove, or otherwise restrict the transfer of real property associated with a solar energy system.

(7) The solar energy service company shall guarantee sufficient funds to properly dispose of the solar energy system at the end of the lease. The solar energy service company is responsible for identifying hazardous and commercially valuable materials contained in the solar energy system and identifying procedures by which these materials may be properly disposed of or reclaimed. The solar energy service company must provide this information to the commission upon request.

(8) For the purposes of this section, "consumer contract" and "solar energy services" have the same meaning as defined in RCW 80.28.005.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (3) of this section, an electric utility is not liable for any harm, economic or otherwise, caused to a customer-generator, a solar energy service company, or another utility by disconnection of a solar energy system for a legitimate purpose.

(2) A legitimate purpose for disconnection of a solar energy system includes, but is not limited to, a safety or reliability purpose, nonpayment of an electric bill to the utility by the customer-generator, or a violation by the customer-generator or solar energy service company of the interconnection agreement between the utility and customer-generator.

(3) Standards for disconnection by an electric utility may not be developed or applied in a manner that unreasonably discriminate on the basis of whether the system is owned by the electric utility or by a solar energy service company or other utility.

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

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

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

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

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

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

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

(3) The exemption provided by this section for the sales of machinery and equipment that is used directly in the generation of electricity using solar energy, or for sales of or charges made for labor and services rendered in respect to installing the machinery and equipment, expires December 31, 2015.

(4) This section expires June 30, 2018.

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

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

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

(3) The exemption provided by this section for the sales of machinery and equipment that is used directly in the generation of electricity using solar energy, or for use of labor or services rendered in respect to installing such machinery and equipment, expires December 31, 2015.

(4) This section expires June 30, 2018.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The exemption provided by this section expires December 31, 2015, as it applies to: (a) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than two hundred kilowatts of electricity; or (b) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(6) This section expires January 1, 2020.

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

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

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

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

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

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

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

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

(5) The exemption provided in subsection (1) of this section expires December 31, 2015, as it applies to machinery and equipment used directly in the generation of electricity using solar energy with nameplate capacity greater than two hundred kilowatts, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(6) This section expires January 1, 2020.

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

(1) The legislature finds that it is in the public interest to:

((~~(1)~~))(a) Encourage private investment in renewable energy resources;

((~~(2)~~))(b) Stimulate the economic growth of this state; and

((~~(3)~~))(c) Enhance the continued diversification of the energy resources used in this state.

(2) The legislature further finds that most homes and businesses with a net metering system and related facilities will continue to be interconnected to the local grid and will utilize the grid for safe electric services including power, energy, balancing, distribution, and reliability. As utilities look to facilitate customer choice for deployment of on-site generation and other grid level services, ratepayers are best served by a just, fair, reasonable, and sufficient price structure that equitably captures the cost of service provided to each customer. Flexible system cost allocation options allow all customers and customer classes to share fairly in the costs and benefits of distributed generation and the electrical grid, including the development and deployment of evolving services and technologies.

**Sec.**  RCW 80.60.020 and 2007 c 323 s 2 are each amended to read as follows:

(1) An electric utility:

(a) Shall offer to make net metering available to eligible customers-generators on a first-come, first-served basis until the cumulative generating capacity of net metering systems equals 0.25 percent of the utility's peak demand during 1996. On January 1, 2014, the cumulative generating capacity available to net metering systems will equal 0.5 percent of the utility's peak demand during 1996. Not less than one-half of the utility's 1996 peak demand available for net metering systems shall be reserved for the cumulative generating capacity attributable to net metering systems that generate renewable energy;

(b) Shall ((~~allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment:~~

~~(i) That the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and~~

~~(ii) How the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;~~

~~(c)~~))receive, on April 30th of each calendar year, for net metering systems using solar energy as a fuel, and annually on a date set by the utility to maximize customer on-site usage for all other net metering systems, and without compensation to the customer‑generator, any kilowatt-hours generated in excess of the customer‑generator's load during the previous year at the end of the measuring year; and

(c) Shall, in implementing this section, use the method provided in subsection (2) or (3) of this section to determine measurement and charges for net metering systems.

(2) If utilizing the method provided in this section for determining measurements and charges, an electric utility:

(a) Shall charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class, but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment, that:

(i) The electric utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these systems; and

(ii) Public policy is best served by imposing these costs on the customer-generator rather than allocating these costs among the utility's entire customer base;

(b) Shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, after appropriate notice and opportunity for comment:

(i) Determines that the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(ii) Establishes how the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;

(c) Shall calculate the net energy measurement in the following manner:

(i) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(ii) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator and fed back to the electric utility during the billing period, the customer‑generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.

(iii) If electricity generated by the customer-generator exceeds the electricity supplied by the electric utility, the customer‑generator:

(A) Shall be billed for the appropriate customer charges for that billing period, in accordance with this subsection; and

(B) Shall be credited for the excess kilowatt-hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.

(3) If utilizing the method provided in this subsection for determining measurements and charges:

(a) An electric utility shall, for electrical companies, file a tariff rate schedule requiring approval of the commission; or, for other electric utilities, adopt rates requiring approval of its governing board, that recovers the cost of services provided to customer-generators with net metering systems and related facilities.

(b) The new tariff rate schedule or rate adopted pursuant to this subsection must also provide that customer-generators, individually, or as groups or rate classes:

(i) Pay for the direct quantifiable costs of service they receive from the electric system; and

(ii) Receive fair compensation for the direct quantifiable benefits the net metering system and related facilities provide to the electric system.

(c) The new tariff rate schedule or rate, as appropriate, must allow additional metering equipment at the customer‑generator's expense to accurately measure the flow of electricity in each direction, if necessary to implement the schedule or rate.

((~~(2) If a production meter and software is required by the electric utility to provide meter aggregation under RCW 80.60.030(4), the customer-generator is responsible for the purchase of the production meter and software.~~))

(4) By December 1, 2016, and by December 1st of each even-numbered year thereafter, the department of commerce shall prepare and transmit to the governor and the appropriate committees of the legislature, along with the state energy strategy implementation report required under RCW 43.21F.045, a report documenting utilization by electric utilities of the alternative tariff rate schedule provided in subsection (3) of this section. The department of commerce has the authority as provided in RCW 43.21F.060 to obtain all information from electric utilities necessary to prepare this report.

**Sec.**  RCW 80.60.030 and 2007 c 323 s 3 are each amended to read as follows:

((~~Consistent with the other provisions of this chapter, the net energy measurement must be calculated in the following manner:~~))

(1) ((~~The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.~~

~~(2) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator and fed back to the electric utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.~~

~~(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electric utility, the customer-generator:~~

~~(a) Shall be billed for the appropriate customer charges for that billing period, in accordance with RCW 80.60.020; and~~

~~(b) Shall be credited for the excess kilowatt-hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.~~

~~(4)~~)) If a customer-generator requests, an electric utility shall provide meter aggregation.

(a) For customer-generators participating in meter aggregation, kilowatt-hours credits earned by a net metering system during the billing period first shall be used to offset electricity supplied by the electric utility.

(b) Not more than a total of one hundred kilowatts shall be aggregated among all customer-generators participating in a generating facility under this subsection.

(c) Excess kilowatt-hours credits earned by the net metering system, during the same billing period, shall be credited equally by the electric utility to remaining meters located on all premises of a customer-generator at the designated rate of each meter.

(d) Meters so aggregated shall not change rate classes due to meter aggregation under this section, but may change rate classes and be charged rates as provided in RCW 80.60.020.

((~~(5) On April 30th of each calendar year, any remaining unused kilowatt-hour credit accumulated during the previous year shall be granted to the electric utility, without any compensation to the customer-generator.~~))

(2) If a production meter and software upgrade is required by the electric utility to provide meter aggregation, the customer-generator is responsible for the purchase of the production meter and software upgrade.

**Sec.**  RCW 80.60.040 and 2006 c 201 s 4 are each amended to read as follows:

(1) A net metering system used by a customer-generator shall include, at the customer-generator's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the national electrical code, national electrical safety code, the institute of electrical and electronics engineers, and underwriters laboratories.

(2) The commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, after appropriate notice and opportunity for comment, may adopt by regulation additional safety, power quality, and interconnection requirements for customer-generators, including limitations on the number of customer-generators and total capacity of net metering systems that may be interconnected to any distribution feeder line, circuit, or network that the commission or governing body determines are necessary to protect public safety and system reliability.

(3) An electric utility may not require a customer-generator whose net metering system meets the standards in subsections (1) and (2) of this section to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of, or disconnecting for any reason, a net metering system, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in sections 1 through 8 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) This tax preference is intended to induce the installation of one hundred fifty megawatts of solar energy systems in Washington by 2024 and to create and retain in-state jobs in the manufacturing and installation of solar energy systems. It is the legislature's intent to help overcome barriers to solar deployment by reducing the cost to customers and utilities of acquiring and installing such systems, thereby incentivizing installation of more solar energy systems.

(3) In 2023, in the annual report to the legislature by the program administrator required under section 2(19) of this act, the program administrator shall report to the legislature on the extent to which the tax preference has promoted the installation of one hundred fifty megawatts of solar energy systems in Washington and an increase in statewide employment in the solar energy sector of ten percent above 2015 levels.

(4) In order to obtain employment data necessary to evaluate performance of this tax preference, the program administrator is encouraged to survey in-state solar energy system manufacturers and installers, or an industry group representing such entities, in 2015 to establish a baseline, and in 2023 before submitting the annual report.

NEW SECTION. **Sec.**  Sections 1 through 8, 18, 19, and 28 of this act constitute a new chapter in Title 80 RCW.

**--- END ---**