

E2SHB 1301 - H AMD 767

By Representative Morris

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.16 RCW
4 to read as follows:

5 It is the intent of the legislature, in modifying the existing
6 renewable energy investment cost recovery incentive program, to improve
7 utilization of the incentive by state residents, utilities, and
8 businesses, streamline program administration, and incubate the
9 development of clean energy technology. The clean technology sector of
10 Washington's economy has been experiencing rapid growth, even in a time
11 when other sectors have been stagnant or in a recession. In enacting
12 incentives for renewable energy systems, the legislature intends to
13 continue to grow a vibrant clean technology sector in Washington.

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

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Administrator" means an owner and assignee of a community
19 solar project as defined in subsection ~~((+2+))~~ (3)(a)(i)(A) or
20 (a)(ii)(A) of this section that is responsible for applying for the
21 investment cost recovery incentive on behalf of the other owners and
22 performing such administrative tasks on behalf of the other owners as
23 may be necessary, such as receiving investment cost recovery incentive
24 payments, and allocating and paying appropriate amounts of such
25 payments to the other owners.

26 (2) "Commission" means the Washington state utilities and
27 transportation commission.

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

29 (i) For solar energy systems certified on or before June 30, 2014:

1 (A) A solar energy system that is capable of generating up to
2 seventy-five kilowatts of electricity and is owned by local
3 individuals, households, nonprofit organizations, or nonutility
4 businesses that is placed on the property owned by a cooperating local
5 governmental entity that is not in the light and power business or in
6 the gas distribution business;

7 (~~(+iii)~~) (B) A utility-owned solar energy system that is capable of
8 generating up to seventy-five kilowatts of electricity and that is
9 voluntarily funded by the utility's ratepayers where, in exchange for
10 their financial support, the utility gives contributors a payment or
11 credit on their utility bill for the value of the electricity produced
12 by the project; or

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

20 (ii) For solar energy systems certified on or after July 1, 2014:

21 (A) A solar energy system that is capable of generating up to
22 seventy-five kilowatts of electricity and is owned by local
23 individuals, households, nonprofit organizations, or nonutility
24 businesses that is placed on property owned by a cooperating state or
25 local governmental entity, nonprofit organization, or educational
26 institution;

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

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

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

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

4 (A)(I) A limited liability company;

5 (II) A cooperative formed under chapter 23.86 RCW; or

6 (III) A mutual corporation or association formed under chapter
7 24.06 RCW; and

8 (B) Not a "utility" as defined in this subsection (~~((+2))~~) (3)(b);
9 (~~and~~)

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

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

15 (~~((+3))~~) (4) "Customer-generated electricity" means a community
16 solar project or the alternating current electricity that is generated
17 from a renewable energy system located in Washington and installed on
18 an individual's, businesses', or local government's real property that
19 is also provided electricity generated by a light and power business.
20 Except for community solar projects, a system located on a leasehold
21 interest does not qualify under this definition. Except for utility-
22 owned community solar projects, "customer-generated electricity" does
23 not include electricity generated by a light and power business with
24 greater than one thousand megawatt hours of annual sales or a gas
25 distribution business.

26 (~~((+4))~~) (5) "Economic development kilowatt-hour" means the actual
27 kilowatt-hour measurement of customer-generated or eligible electricity
28 multiplied by the appropriate economic development factor.

29 (~~((+5))~~) (6) "Eligible electricity" means:

30 (a) Electricity generated by a community solar project, as defined
31 in subsection (3)(a)(ii) of this section;

32 (b) Electricity generated by an energy system located in
33 Washington, where the customer owns the real property where the system
34 is installed and does not merely possess a leasehold interest, and the
35 system is:

36 (i) A utility-owned solar energy system, as defined in subsection
37 (3)(a)(ii)(B) of this section, installed on the premises of a customer
38 of the utility; or

1 (ii) A renewable energy system located in Washington and installed
2 on a person's or entity's real property that is also provided
3 electricity generated by a utility;

4 (c) Electricity generated by a project developed pursuant to a
5 utility-owned solar energy program;

6 (d) Electricity generated by a leased energy system; and

7 (e) Customer-generated electricity generated by a system for which
8 a person or entity applied for incentive payments prior to July 1,
9 2014.

10 (7) "Leased energy system" means a renewable energy system that:

11 (a) Is located in Washington, installed on an individual's,
12 business's, or local government's real property, and owned by an
13 electric utility or a third-party vendor; and

14 (b) Has been specifically authorized to offer service to retail
15 electric customers by a statute that establishes regulatory oversight
16 and consumer protections for such systems.

17 (8) "Local governmental entity" means any unit of local government
18 of this state including, but not limited to, counties, cities, towns,
19 municipal corporations, quasi-municipal corporations, special purpose
20 districts, and school districts.

21 ~~((+6))~~ (9) "Photovoltaic cell" means a device that converts light
22 directly into electricity without moving parts.

23 ~~((+7))~~ (10) "Renewable energy system" means a solar energy system,
24 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
25 used for producing electricity.

26 ~~((+8))~~ (11) "Solar energy system" means any device or combination
27 of devices or elements that rely upon direct sunlight as an energy
28 source for use in the generation of electricity.

29 ~~((+9))~~ (12) "Solar inverter" means the device used to convert
30 direct current to alternating current in a solar energy system.

31 ~~((+10))~~ (13) "Solar module" means the smallest nondivisible self-
32 contained physical structure housing interconnected photovoltaic cells
33 and providing a single direct current electrical output.

34 ~~((+11))~~ (14) "Stirling converter" means a device that produces
35 electricity by converting heat from a solar source utilizing a stirling
36 engine.

37 (15) "Storage system" means a system or technology that can store
38 electricity generated by a renewable energy system or systems at up to

1 twenty percent of the maximum total daily output of the renewable
2 energy system or systems to which the storage system is coupled. A
3 storage system can be coupled to a renewable energy system on the
4 premises where the system is located or can be coupled to multiple
5 systems on any premises served by the distribution feeder where the
6 renewable energy systems are located.

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

9 (17) "Utility solar energy program" means a leased energy systems
10 program offered by a utility that has been specifically authorized by
11 state law to offer such service to retail electric customers in a
12 statute that establishes regulatory oversight and consumer protections
13 for such systems.

14 (18)(a) "Economic development solar module" means a solar module
15 that is manufactured in Washington and meets the following criteria:

16 (i) The definition of manufacturing as defined in WAC 458-20-136 as
17 of January 1, 2014; and

18 (ii) The solar module is produced at a manufacturing facility
19 located in Washington that is registered and authorized to manufacture
20 and apply the UL 1703 certification mark for that solar photovoltaic
21 module by underwriters laboratory (UL), or an equivalent UL-approved
22 independent certification agency; and

23 (iii) The UL 1703 certification mark for the solar module, as
24 approved by UL or an equivalent UL-approved independent certification
25 agency, must be physically applied to the module at the manufacturing
26 facility described in (a)(ii) of this subsection (18).

27 (b) For purposes of (a) of this subsection (18), the act of simply
28 attaching a microinverter, direct current optimizer, or other power
29 electronics to a solar photovoltaic module that has received UL 1703
30 certification marks outside Washington from UL, or an equivalent UL-
31 approved independent certification agency, may not be considered
32 manufactured in Washington.

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

35 (1) Beginning July 1, 2014, a person or entity who has applied for
36 an incentive payment under RCW 82.16.120 on or before June 30, 2014,

1 and was eligible to receive such an incentive payment may apply to
2 receive additional incentive payments for eligible electricity, as
3 provided in this section.

4 (2) The person or entity may receive incentive payments for
5 eligible electricity generated through June 30, 2020, or for a total of
6 ten years from the date of certification under RCW 82.16.120, whichever
7 date comes first.

8 (a) A certification, once issued, may not be retroactively changed
9 due to evolutionary standards or interpretations of the program
10 administrators.

11 (b) Certification of a renewable energy system follows the system
12 with the transfer of property.

13 (3) By July 1, 2014, the department must transfer to the commission
14 all records necessary to carry out the remaining incentive payments due
15 under this section.

16 (4) In order to continue to receive incentive payments under the
17 authority of this section, any person, administrator of a community
18 solar project, or company that received incentive payments under RCW
19 82.16.120 must pay a one-time administrative fee to the commission and
20 submit an application for certification, as provided in section 4 of
21 this act. The commission is authorized to establish such fee as
22 necessary in order to process records required to administer the
23 program and make available incentive payments under this section.

24 (5) Each year, by August 1st, the applicant must apply to the
25 commission to receive the incentive payment, following the application
26 process established in section 4 of this act.

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

29 (1)(a) Beginning July 1, 2014, any person, entity, utility, or
30 administrator or company owner of a community solar project may apply
31 to the commission for the commission to issue a certification
32 authorizing the utility serving the situs of the system to remit an
33 annual investment cost recovery incentive for each economic development
34 kilowatt-hour of eligible electricity generated.

35 (b) Annual investment cost recovery incentives allowed under this
36 subsection for a system that is a leased energy system may not be
37 assigned to a financial institution.

1 (c) Annual investment cost recovery incentives allowed under this
2 subsection for a system that already received incentive payments under
3 RCW 82.16.120 are subject to the limitations established in section 3
4 of this act.

5 (d) In the case of a community solar project, the administrator
6 must apply for the investment cost recovery incentive on behalf of each
7 of the other owners.

8 (e) In the case of a company-owned community solar project, the
9 company owning the community solar project must apply for the
10 investment cost recovery incentive on behalf of each member of the
11 company.

12 (2)(a) Before submitting to the commission for the first time the
13 certification for the incentive allowed under subsection (1) of this
14 section, the applicant must submit to the commission a processing fee
15 and an application for certification, in a form and manner prescribed
16 by the commission that includes, but is not limited to, the following
17 information:

18 (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, the certification must also include the name and address of
22 each of the owners of the community solar project.

23 (B) If the applicant is a company that owns a community solar
24 project, the certification must also include the name and address of
25 each member of the company;

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

27 (iii) An affidavit that the premises on which the system applying
28 for the incentive either:

29 (A) Is not receiving, and has not received, any incentive under RCW
30 82.16.120; or

31 (B) For certification applications submitted after July 1, 2014,
32 pursuant to section 3 of this act, a statement of the date of the
33 notification from the department stating that the renewable energy
34 system was eligible to receive incentives under RCW 82.16.120;

35 (iv) That the electricity produced by the applicant meets the
36 definition of eligible electricity, and that the renewable energy
37 system produces electricity with:

- 1 (A) Any solar inverters and economic development solar modules
2 manufactured in Washington state;
- 3 (B) A wind generator powered by blades manufactured in Washington
4 state;
- 5 (C) A solar inverter manufactured in Washington state;
- 6 (D) An economic development solar module manufactured in Washington
7 state;
- 8 (E) A stirling converter manufactured in Washington state; or
- 9 (F) Solar or wind equipment manufactured outside of Washington
10 state;
- 11 (v) Storage system used, if any;
- 12 (vi) A statement of the amount of eligible electricity and economic
13 development kilowatt-hours expected to be generated by the renewable
14 energy system and an estimate of the annual electrical use of the
15 premises;
- 16 (vii) That the electricity can be transformed or transmitted for
17 entry into or operation in parallel with electricity transmission and
18 distribution systems;
- 19 (viii) The date that the renewable energy system received its final
20 electrical permit from the applicable local jurisdiction, as well as a
21 copy of the permit; and
- 22 (ix) Any other information the commission deems would be helpful in
23 facilitating the review of the performance of the tax preferences by
24 the joint legislative audit and review committee, as described in
25 section 6 of this act.
- 26 (b) Within thirty days of receipt of the application for
27 certification and the final electrical permit from the local
28 jurisdiction, the commission must notify the applicant and the utility
29 serving the situs of the system by mail, or electronically, whether the
30 renewable energy system qualifies and is certified for an incentive
31 under this section. System certifications and the information
32 contained therein are subject to disclosure under RCW 82.32.330(3)(1).
- 33 (c) Except as provided in section 3 of this act, once a system is
34 certified by the commission to be eligible for the incentive, that
35 certification is valid for ten years and may not be retroactively
36 changed due to evolutionary standards or interpretations by the
37 commission or the department, except for errors in the original

1 application or certification. Certification of a renewable energy
2 system follows the system with the transfer of property.

3 (3)(a) After a system is certified by the commission, an initial
4 application for the incentive under this section must be made to the
5 department and the participating utility serving the situs of the
6 system in a form and manner prescribed by the commission, after
7 consultation with the department, that includes, but is not limited to,
8 the following information:

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

11 (A) If the applicant is an administrator of a community solar
12 project, the application must also include the name and address of each
13 of the owners of the community solar project.

14 (B) If the applicant is a company that owns a community solar
15 project, the application must also include the name and address of each
16 member of the company.

17 (C) If the applicant is a utility, the person designated by the
18 utility;

19 (ii) The applicant's tax registration number; and

20 (iii) The date of the notification from the commission stating that
21 the renewable energy system is certified and eligible for the
22 incentives under this section.

23 (b) Within sixty days of receipt of notification of the application
24 and approval by the department, the utility serving the situs of the
25 system must notify the department of any abnormal production claims
26 and, if none are identified, must issue the incentive payment.

27 (c) After the first year in which an incentive payment has been
28 authorized by the utility as provided under (b) of this subsection,
29 persons receiving the incentive must provide a statement, by August 1st
30 of each year, in the form of a signed affidavit to the department of
31 the amount of kilowatt-hours of eligible electricity generated by, and
32 the amount of economic development kilowatt-hours attributable to, the
33 renewable energy system in the prior fiscal year. The amount of
34 eligible electricity generated, in kilowatt-hours, may be determined
35 from a reading of the inverter or production meter connected to the
36 system, at the option of the utility. The amount of economic
37 development kilowatt-hours must be calculated by the amount of eligible

1 electricity multiplied by the multipliers certified in the system
2 certification.

3 (d) Persons and entities applying to receive incentives must take
4 a digital photo on the last day of each fiscal year of the production
5 meter or inverter reading and must keep and preserve, for a period of
6 five years, the digital photo as may be necessary to verify, upon
7 request, that the correct amount of incentive was applied for and
8 received.

9 (e) The department must calculate, for the prior fiscal year, and
10 provide to the utility the amount of the incentive payment due to each
11 utility customer, utility, and community solar project, located on the
12 premises serviced by that utility and the total amount of credit for
13 each utility against tax due under this chapter. The utility must
14 report to the department any abnormal production claims.

15 (f)(i) Persons and entities receiving incentive payments must keep
16 and preserve, for a period of five years, suitable records as may be
17 necessary to determine the amount of incentive applied for and
18 received. Such records must be open for examination at any time upon
19 notice by the department. If upon examination of any records or from
20 other information obtained by the department it appears that an
21 incentive has been paid in an amount that exceeds the correct amount of
22 incentive payable, the department may assess against the person that
23 received the excess incentive for the amount found to have been paid in
24 excess of the correct amount of incentive payable and must add thereto
25 interest and may assess penalties on the amount. Interest and
26 penalties are assessed in the manner that the department assesses
27 penalties and interest upon delinquent tax under RCW 82.32.050, except
28 that interest and penalties must be deducted from any future incentive
29 payments that may be due.

30 (ii) If it appears that the amount of incentive paid is less than
31 the correct amount of incentive payable, the department may authorize
32 additional payment to the utility or utility customer certified to
33 receive incentives and additional credit due to the utility.

34 (iii) If the department finds that a person has falsely reported
35 annual electricity production or consumption under this section with
36 the intent to claim entitlement to a greater incentive payment than the
37 person is eligible to receive under this section, the department must

1 impose a penalty, deducting from any incentive payment that would
2 otherwise be due the sum of five hundred dollars or fifty percent of
3 the incentive payment due, whichever is greater.

4 (4) Once a system is certified by the commission and has been
5 authorized by and has signed an interconnection agreement with the
6 utility serving the situs of the system, it will be considered to have
7 commenced operation. The eligible electricity base rate used to
8 calculate the investment cost recovery incentive, payable for a period
9 of ten years from commencement of operation, must be based on the year
10 in which the system commenced operation as follows:

11	2014: \$0.15; for community solar:	\$0.20
12	2015: \$0.14; for community solar:	\$0.19
13	2016: \$0.13; for community solar:	\$0.18
14	2017: \$0.12; for community solar:	\$0.17
15	2018: \$0.11; for community solar:	\$0.16

16 (5) For the purposes of this section, the rate paid for the
17 investment cost recovery incentive is determined by multiplying the
18 eligible electricity base rate by the following factors, and adding the
19 sum of those products to the eligible electricity base rate:

20 (a) For eligible electricity produced using economic development
21 solar modules manufactured in Washington state or a solar stirling
22 converter manufactured in Washington state, two and four-tenths;

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

26 (c) For eligible electricity produced using an anaerobic digester,
27 or by other solar equipment or using a wind generator equipped with
28 blades manufactured in Washington state, one;

29 (d) For all other eligible electricity produced by wind, eight-
30 tenths; and

31 (e) For eligible electricity using a storage system, seven-tenths.

32 (6)(a) No person, entity, or utility is eligible for incentives
33 under this section for otherwise eligible electricity generated in
34 excess of the net kilowatt-hours consumed annually at the metered
35 location.

1 (b) For projects that are not community solar projects, no person
2 is eligible for annual incentive payments provided under this section
3 for more than the following amounts per system:

- 4 (i) 0-10 kilowatts - \$5,000
- 5 (ii) 11-25 kilowatts - \$15,000
- 6 (iii) 26-30 kilowatts - \$20,000
- 7 (iv) Over 30 kilowatts - \$25,000

8 (c) Except as provided otherwise in (d) through (f) of this
9 subsection (6), each owner or member in a community solar project is
10 eligible for up to five thousand dollars per year.

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

15 (e) 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 thousand
20 dollars per year. The company itself is not eligible for incentives
21 under this section.

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

26 (7) The commission must establish a list of eligible solar module
27 components and may consult with various experts in developing the list.

28 (8) The environmental attributes of the renewable energy system
29 belong to the applicant except in the case of a renewable energy system
30 leased from a utility, in which case the attributes belong to the
31 utility.

32 (9) No incentive may be paid under this section for kilowatt-hours
33 generated by a system that commences operation after December 31, 2018.

34 (10) No incentive may be paid under this section for a leased
35 energy system beginning operation after December 31, 2015, that is net
36 metered under chapter 80.60 RCW.

37 (11) Each system qualifying for incentives under this section must

1 have a production meter or inverter and interconnects with the
2 utility's system in a manner that allows the utility to measure the
3 total amount of electricity consumed on the premises.

4 (12) The commission may charge applicants a fee to process
5 applications for certification under this section. In order to
6 establish a fee amount, the commission must examine the last two years
7 of application activities at the department and determine the
8 reasonable cost associated with the processing of an application. Any
9 overage of the collection of fees must be carried over to the next
10 fiscal year to reduce the cost of the commission administering the
11 program.

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

14 (1) A ~~((light and power business shall))~~ utility issuing incentive
15 payments under RCW 82.16.120 or section 3 or 4 of this act must be
16 allowed a credit against taxes due under this chapter in an amount
17 equal to investment cost recovery incentive payments made in any fiscal
18 year under RCW 82.16.120, section 3 of this act, and section 4 of this
19 act. The credit ~~((shall))~~ must be taken in a form and manner as
20 required by the department. The credit under this section for the
21 fiscal year may not exceed one-half percent of the ~~((businesses¹))~~
22 utility's taxable power sales due under RCW 82.16.020(1)(b) or ~~((one))~~
23 two hundred fifty thousand dollars, whichever is greater. Incentive
24 payments to participants in a utility-owned community solar project as
25 defined in RCW 82.16.110~~((+2))~~ (3)(a)((+ii)) (i)(B) or in section 3
26 of this act may only account for up to twenty-five percent of the total
27 allowable credit. Incentive payments to participants in a company-
28 owned community solar project as defined in RCW 82.16.110~~((+2))~~
29 (3)(a)((+iii)) (i)(C) or in section 3 of this act may only account for
30 up to five percent of the total allowable credit. The credit may not
31 exceed the tax that would otherwise be due under this chapter. Refunds
32 shall not be granted in the place of credits. Expenditures not used to
33 earn a credit in one fiscal year may not be used to earn a credit in
34 subsequent years. Incentive payments for renewable energy systems
35 greater than ten kilowatts may not claim more than fifty percent of the
36 total allowable credit.

1 (2) For any (~~business~~) utility that has claimed credit for
2 amounts that exceed the correct amount of the incentive payable under
3 RCW 82.16.120 or section 4 of this act, the amount of tax against which
4 credit was claimed for the excess payments (~~shall be~~) is immediately
5 due and payable. The department (~~shall~~) must assess interest but not
6 penalties on the taxes against which the credit was claimed. Interest
7 (~~shall~~) must be assessed at the rate provided for delinquent excise
8 taxes under chapter 82.32 RCW, retroactively to the date the credit was
9 claimed, and (~~shall~~) accrues until the taxes against which the credit
10 was claimed are repaid.

11 (3) Each utility making incentive payments and claiming tax credits
12 pursuant to this section must post on its web site and update quarterly
13 a report of the allowable credit limit established under subsection (1)
14 of this section and an estimate of the amount of credit that has not
15 yet been allocated for incentive payments to certified renewable energy
16 systems the situs of which is served by the utility.

17 (4) The right to earn tax credits under this section expires June
18 30, (~~2020~~) 2028. Credits may not be claimed after June 30, (~~2021~~)
19 2029.

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

22 (1) This section is the tax preference performance statement for
23 the tax preference and incentives created under RCW 82.16.130 and
24 sections 3 and 4 of this act. This performance statement is only
25 intended to be used for subsequent evaluation of the tax preference and
26 incentives. It is not intended to create a private right of action by
27 any party or be used to determine eligibility for preferential tax
28 treatment or for certification under section 4 of this act.

29 (2) The legislature categorizes the tax preference and incentive
30 created in this act as intended to induce certain designated behavior
31 by taxpayers, as indicated in RCW 82.32.808(2)(a), and to create or
32 retain jobs, as indicated in RCW 82.32.808(2)(c).

33 (3)(a) The legislature's public policy objective is to increase and
34 improve utilization of clean energy technology in Washington by
35 providing the incentive in section 3 of this act and the credit in
36 section 6 of this act.

1 (b) It is also the objective of the legislature to increase the
2 number of jobs in the clean energy technology industry in Washington.
3 It is the legislature's intent to provide the incentives in sections 3
4 and 4 of this act and the credit in RCW 82.16.130 in order to reduce
5 the costs associated with installing and operating clean energy systems
6 by persons or entities receiving an incentive in sections 3 and 4 of
7 this act and to reduce the costs for providing those incentives by
8 entities receiving a credit in RCW 82.16.130, thereby increasing the
9 ability for clean energy technology firms to access the energy market
10 and expand their operations in Washington, thereby increasing the
11 number of jobs in the clean energy technology industry in Washington.

12 (4) As part of its 2018 tax preference reviews conducted under
13 chapter 43.136 RCW, the joint legislative audit and review committee
14 must review the tax preferences and incentives in RCW 82.16.120,
15 82.16.130, and sections 3 and 4 of this act. The legislature intends
16 for the legislative auditor to recommend extending the expiration date
17 of the tax preference if a review finds that the following performance
18 milestones have been met:

19 (a) Increased utilization of the available tax credits, as
20 evidenced by:

21 (i) A one hundred percent increase in the number of solar energy
22 systems installed and receiving the incentive, from the 2012 baseline;
23 and

24 (ii) A one hundred percent increase in the total generating
25 capacity of installed systems, from the 2012 baseline;

26 (b) A decrease over time in the levelized cost of the systems
27 receiving the tax preferences;

28 (c) Growth of solar-related employment, as evidenced by:

29 (i) An increase in the total number and per capita rate of solar
30 energy-related jobs in Washington, as reported by a relevant trade
31 association in the state; and

32 (ii) Achievement of a top ten national ranking for solar energy-
33 related employment and a top nine ranking for per capita solar energy-
34 related employment, as reported in a nationally recognized report; and

35 (d) Leveraging of nonstate funds, as measured by a report of the
36 total dollar value of tax credits awarded within each county and zip
37 code, and the total amount of nonstate funds leveraged within each
38 county and zip code.

1 (5) In order to obtain the data necessary to perform the review in
2 subsection (4) of this section, the joint legislative audit and review
3 committee may refer to the data collected by the commission and the
4 department under the application and certification process established
5 in section 4 of this act.

6 (6) The department is encouraged to collect, through the
7 application process, data from persons receiving the incentive payments
8 created in this act, as necessary, and may collect data from other
9 interested persons to report on progress toward achieving the
10 performance milestones listed in subsection (4) of this section.

11 (7) All recipients of tax credits or incentive payments awarded
12 under this chapter must provide any data requested by the commission or
13 the joint legislative audit and review committee for reporting
14 purposes. Failure to comply may result in the loss of a tax credit
15 award or incentive payment in the following year.

16 **Sec. 7.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to read
17 as follows:

18 (1)(a) Any individual, business, local governmental entity, not in
19 the light and power business or in the gas distribution business, or a
20 participant in a community solar project may apply to the light and
21 power business serving the situs of the system, each fiscal year
22 beginning on July 1, 2005, and ending June 30, 2014, for an investment
23 cost recovery incentive for each kilowatt-hour from a customer-
24 generated electricity renewable energy system.

25 (b) In the case of a community solar project as defined in RCW
26 82.16.110(~~(+2)~~) (3)(a)(i)(A), the administrator must apply for the
27 investment cost recovery incentive on behalf of each of the other
28 owners.

29 (c) In the case of a community solar project as defined in RCW
30 82.16.110(~~(+2)~~) (3)(a)(~~(+iii)~~) (i)(C), the company owning the
31 community solar project must apply for the investment cost recovery
32 incentive on behalf of each member of the company.

33 (2)(a) Before submitting for the first time the application for the
34 incentive allowed under subsection (4) of this section, the applicant
35 must submit to the department of revenue and to the climate and rural
36 energy development center at the Washington State University,

1 established under RCW 28B.30.642, a certification in a form and manner
2 prescribed by the department that includes, but is not limited to, the
3 following information:

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

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

10 (B) If the applicant is a company that owns a community solar
11 project as defined in RCW 82.16.110(~~((+2+))~~) (3)(a)(~~((+iii+))~~) (i)(C), the
12 certification must also include the name and address of each member of
13 the company;

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

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

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

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

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

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

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

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

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

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

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

1 certifications and the information contained therein are subject to
2 disclosure under RCW 82.32.330(3)(1).

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

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

10 (A) If the applicant is an administrator of a community solar
11 project as defined in RCW 82.16.110(~~(+2+)~~) (3)(a)(i)(A), the
12 application must also include the name and address of each of the
13 owners of the community solar project.

14 (B) If the applicant is a company that owns a community solar
15 project as defined in RCW 82.16.110(~~(+2+)~~) (3)(a)(~~(+iii+)~~) (i)(C), the
16 application must also include the name and address of each member of
17 the company;

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

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

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

24 (b) Within sixty days of receipt of the incentive certification the
25 light and power business serving the situs of the system must notify
26 the applicant in writing whether the incentive payment will be
27 authorized or denied. The business may consult with the climate and
28 rural energy development center to determine eligibility for the
29 incentive payment. Incentive certifications and the information
30 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

31 (c)(i) Persons, administrators of community solar projects, and
32 companies receiving incentive payments must keep and preserve, for a
33 period of five years, suitable records as may be necessary to determine
34 the amount of incentive applied for and received. Such records must be
35 open for examination at any time upon notice by the light and power
36 business that made the payment or by the department. If upon
37 examination of any records or from other information obtained by the
38 business or department it appears that an incentive has been paid in an

1 amount that exceeds the correct amount of incentive payable, the
2 business may assess against the person for the amount found to have
3 been paid in excess of the correct amount of incentive payable and must
4 add thereto interest on the amount. Interest is assessed in the manner
5 that the department assesses interest upon delinquent tax under RCW
6 82.32.050.

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

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

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

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

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

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

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

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

37 (c) Where the applicant is an administrator of a community solar

1 project as defined in RCW 82.16.110(~~(+2+)~~) (3)(a)(i)(A), each owner is
2 eligible for an incentive but only in proportion to the ownership share
3 of the project, up to five thousand dollars per year.

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

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

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

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

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

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

28 (10) An individual, business, local governmental entity, not in the
29 light and power business or in the gas distribution business, or a
30 participant in a community solar project who has applied for and
31 received an incentive under this section may continue to receive
32 incentive payments after June 30, 2014, as provided in sections 3 and
33 4 of this act."

34 Correct the title.

EFFECT: The striking amendment makes the following changes as

compared with Engrossed Second Substitute House Bill 1301:

Program Administration.

Continues to guarantee incentive payments to eligible applicants for a term of years, but changes the method of administration of these payments and duration of the program.

(1) Requires the Utilities and Transportation Commission (UTC) to certify eligibility to receive incentive payments, instead of providing for a voucher program administered by an "agency to be designated by the Governor".

(2) Provides that if an applicant was certified by the Department of Revenue to receive incentive payments after July 1, 2005 and prior to July 1, 2014, the applicant may apply to the UTC for a new certification entitling the applicant to receive incentive payments for electricity generated through June 30, 2020, or for a total of 10 years from the original certification, whichever comes first.

(3) Provides that eligible applicants applying for certification to receive the incentive after July 1, 2014 (new entrants) will be certified for a term of 10 years.

(4) Shortens the duration of the program, providing that no incentive may be paid for otherwise eligible electricity generated by a renewable energy system that commences operation after December 31, 2018, in place of the former deadline for issuing new vouchers of June 30, 2023.

(5) Requires the applicant, before submitting to the Department of Revenue for the first time the certification for the incentive, to submit to the UTC an application for certification and a processing fee. Authorizes the UTC to establish this fee to recover its costs of administering the program.

(6) Makes additional changes in the certification and annual application process, including requiring applicants to take digital photos each year of the production meter reading and maintain these records on file for five years.

Eligibility and Incentive Rates. Changes the maximum incentive payment that can be received by an eligible system.

(1) Replaces the maximum annual incentive payments based on system size limitations, of \$5000 payment and 5 kilowatt system size for a residential retail electric customer and \$25,000 and 100 kilowatts for non-retail customers, with a graduated scale for all customers based on renewable energy system generating capacity: (a) \$5,000 for systems with a generating capacity between zero to ten kilowatts; (b) \$15,000 for systems with a generating capacity between eleven and twenty-five kilowatts; (c) \$20,000 for systems with a generating capacity between twenty-six and thirty kilowatts; and (d) \$25,000 for systems with a generating capacity over thirty kilowatts.

(2) Provides that the base rate for renewable energy systems starts at 15 cents per kilowatt-hour in 2014 and decreases by one cent per year through 2018, until the base rate equals 11 cents per kilowatt-hour, rather than retaining the existing incentive rates and authorizing new base rates and multipliers to go into effect only on or after July 1, 2018.

(3) Provides that the base rate for community solar projects starts at 20 cents per kilowatt-hour in 2014 and decreases by one cent per year through 2018, until the base rate equals 16 cents per kilowatt-hour, rather than retaining existing rates through July 1, 2018.

Changes the definition of solar modules that are eligible for special economic development rate multipliers.

Changes eligibility requirements for receiving enhanced incentive rates under "Community Solar" program.

Public Utility Tax Credit Cap.

Changes requirements related to the Public Utility Tax credit.

(1) Provides that a utility's credit may not exceed the greater of one-half percent of the utility's taxable power sales or \$250,000, instead of providing that a utility's credit may not exceed the greater of one-half percent of the utility's taxable power sales or \$100,000.

(2) Provides that incentive payments for renewable energy systems greater than 10 kilowatts may not claim more than 50 percent of the total allowable credit.

(3) Provides that the utility's right to earn tax credits expires June 30, 2028 and credits may not be claimed after June 30, 2029.

(4) Requires each utility making incentive payments and claiming tax credits to post on its web site and update quarterly a report of the allowable credit limit and an estimate of the amount of credit that has been allocated for incentive payments to certified renewable energy systems.

Third Party and Utility Financing of Solar Energy Systems.

(1) Removes express authorization to the UTC to allow utilities to recover in tariffs the cost of certain distributed solar energy systems

(2) Expands the kinds of systems that generate "eligible electricity" for which incentive payments may be received, including leased systems, utility-owned solar energy systems, and electricity generated by a project developed pursuant to a utility-owned solar energy program.

(3) Establishes that electricity generated by a leased energy system will be eligible for incentive payments if the leased system is located in Washington, installed on an individual's, business's, or local government's real property, owned by an electric utility or a third-party vendor, and has been specifically authorized to offer service to retail electric customers by a statute that establishes regulatory oversight and consumer protections for such systems.

(4) Establishes that electricity generated by a utility-owned solar system will be eligible for incentive payments.

(5) Provides that the certification of a renewable energy system follows the system with the transfer of property.

(6) Specifies that the environmental attributes of the renewable energy system belong to the applicant, except in the case of a system leased from a utility, in which case the attributes belong to the utility.

(7) Prohibits incentive payments for leased energy systems that begin operations after December 31, 2015 that participate in the net metering program.

Tax Preference Performance Statement.

(1) Establishes performance milestones using the tax preference performance statement format specified under Senate Bill 5882, enacted as Chapter 13, Laws of 2013.

(2) Directs the Joint Legislative Audit Review Committee to review the tax preference and incentives and recommend extending the expiration date of the tax preference if the review finds that these milestones have been met in 2018, instead of 2019.

(3) Encourages the UTC and Department of Revenue to collect, through the application and certification process, data as necessary to

report on progress toward achieving the performance milestones.

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