

2SHB 2346 - H AMD 764

By Representative Morris

ADOPTED 02/16/2016

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

3 "NEW SECTION. **Sec. 1.** The legislature finds and declares that  
4 stimulating local investment in distributed renewable energy  
5 generation is an important part of a state energy strategy, helping  
6 to increase energy independence from fossil fuels, promote economic  
7 development, hedge against the effects of climate change, and attain  
8 environmental benefits. The legislature intends to increase the  
9 effectiveness of the existing renewable energy investment cost  
10 recovery program by reducing the maximum incentive rate provided for  
11 each kilowatt-hour of electricity generated by a renewable energy  
12 system over the period of the program and by creating opportunities  
13 for broader participation by low-income individuals and others who  
14 may not own the premises where a renewable energy system may be  
15 installed. The legislature intends to provide an incentive sufficient  
16 to promote installation of systems through 2020, at which point the  
17 legislature expects that the state's renewable energy industry will  
18 be capable of sustained growth and vitality without the cost recovery  
19 incentive.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16  
21 RCW 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 section 7 of this act. This performance statement is only intended to  
25 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.

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

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

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

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

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

8 (b) Promote economic development through increasing and improving  
9 investment in, development of, and use of clean energy technology in  
10 Washington; and

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

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

19 (5) As part of its 2019 tax preference reviews conducted under  
20 chapter 43.136 RCW, the joint legislative audit and review committee  
21 must review the tax preferences and incentives in section 7 of this  
22 act and RCW 82.16.130. The legislature intends for the legislative  
23 auditor to determine that the incentive has achieved its desired  
24 outcomes if the following objectives are achieved:

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

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

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

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

35 (6) In order to obtain the data necessary to perform the review,  
36 the joint legislative audit and review committee may refer to data  
37 collected by the Washington State University extension energy program  
38 and may obtain employment data from the employment security  
39 department.

1 (7) The Washington State University extension energy program  
2 shall collect, through the application process, data from persons  
3 claiming the tax credit under RCW 82.16.130 and persons receiving the  
4 incentive payments created in section 7 of this act, as necessary,  
5 and may collect data from other interested persons as necessary to  
6 report on the performance of this act.

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

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

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

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

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

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

37 (b) No person may submit a certification to the department under  
38 (a) of this subsection after May 31, 2016.

39 (c) The certification must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (~~(b)~~) (d) Within thirty days of receipt of the certification  
30 the department of revenue must notify the applicant by mail, or  
31 electronically as provided in RCW 82.32.135, whether the renewable  
32 energy system qualifies for an incentive under this section. The  
33 department may consult with the climate and rural energy development  
34 center to determine eligibility for the incentive. System  
35 certifications and the information contained therein are not  
36 confidential tax information under RCW 82.32.330 and are subject to  
37 disclosure (~~(under RCW 82.32.330(3)(1))~~).

38 (3)(a) By August 1st of each year through August 1, 2016, the  
39 application for the incentive must be made to the light and power  
40 business serving the situs of the system by certification in a form

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

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

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

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

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

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

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

18 (b) Within sixty days of receipt of the incentive certification  
19 the light and power business serving the situs of the system must  
20 notify the applicant in writing whether the incentive payment will be  
21 authorized or denied. The business may consult with the climate and  
22 rural energy development center to determine eligibility for the  
23 incentive payment. Incentive certifications and the information  
24 contained therein are not confidential tax information under RCW  
25 82.32.330 and are subject to disclosure (~~under RCW~~  
26 ~~82.32.330(3)(1))~~).

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

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

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

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

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

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

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

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

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

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

36 (d) Where the applicant is a company owning a community solar  
37 project that has applied for an investment cost recovery incentive on  
38 behalf of its members, each member of the company is eligible for an  
39 incentive that would otherwise belong to the company but only in  
40 proportion to each ownership share of the company, up to five

1 thousand dollars per year. The company itself is not eligible for  
2 incentives under this section.

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

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

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

16 ~~((8))~~ (7) The environmental attributes of the renewable energy  
17 system belong to the applicant, and do not transfer to the state or  
18 the light and power business upon receipt of the investment cost  
19 recovery incentive.

20 ~~((9))~~ (8) No incentive may be paid under this section for  
21 kilowatt-hours generated before July 1, 2005, or after June 30,  
22 ~~((2020))~~ 2016.

23 (9) Beginning July 1, 2016, program management, technical review,  
24 and tracking responsibilities of the department under this section  
25 are transferred to the Washington State University extension energy  
26 program. At the earliest date practicable and no later than June 30,  
27 2016, the department must transfer all records necessary for the  
28 administration of the remaining incentive payments due under this  
29 section to the Washington State University extension energy program.

30 NEW SECTION. Sec. 4. A new section is added to chapter 82.16  
31 RCW to read as follows:

32 (1) The legislature intends to allow participants in the  
33 renewable energy investment cost recovery program under RCW 82.16.120  
34 to continue to receive payments for electricity produced through June  
35 2020, at the rates they anticipated when they first received notice  
36 of eligibility from the department under RCW 82.16.120, unless and  
37 until requests for the incentive under RCW 82.16.120, this section,  
38 and section 7 of this act cumulatively exceed the amount of funds  
39 available for credit under RCW 82.16.130, as amended by this act.

1 (2) A person or community solar project administrator who has,  
2 before June 1, 2016, submitted a complete certification to the  
3 department under RCW 82.16.120(2) may apply to the Washington State  
4 University extension energy program to receive a certification  
5 authorizing the utility serving the situs of the renewable energy  
6 system to remit an investment cost recovery incentive for each  
7 kilowatt-hour generated by the renewable energy system beginning July  
8 1, 2016, and ending June 30, 2020.

9 (a) The person or community solar project administrator must  
10 submit the application to the Washington State University extension  
11 energy program before July 15, 2016, or within fifteen days of  
12 receiving a notice of eligibility from the department under RCW  
13 82.16.120, whichever is later.

14 (b) The Washington State University extension energy program must  
15 review the data provided by the department under RCW 82.16.120(2) and  
16 the application requirements under section 7(7) of this act and  
17 establish an application process by which to collect system operation  
18 data including global positioning system coordinates, tilt, shading,  
19 and azimuth, and any additional information that it requires in order  
20 to issue the certification under this section. The Washington State  
21 University extension energy program must notify participants that  
22 providing such additional information is a condition of retaining  
23 certification to receive any payments otherwise due from utilities  
24 under this section beginning with the program year ending June 30,  
25 2017.

26 (3) The Washington State University extension energy program must  
27 assess a fee of up to seventy-five dollars per applicant under this  
28 section. The fee must be deducted by each participating utility from  
29 the incentive payments due to such customers for the program year  
30 ending June 30, 2016, and must be remitted by the utility to the  
31 Washington State University extension energy program by September 30,  
32 2016. The Washington State University extension energy program must  
33 deposit all revenue generated by this fee into the state general  
34 fund.

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

37 (1) A light and power business shall be allowed a credit against  
38 taxes due under this chapter in an amount equal to (~~investment cost~~



1 ~~recovery~~) incentive payments made in any fiscal year under RCW  
2 82.16.120 and section 7 of this act.

3 (2) The credits (~~(shall)~~) must be taken in a form and manner as  
4 required by the department. The credit under this section for the  
5 fiscal year may not exceed (~~(one-half)~~) two percent of the  
6 businesses' taxable power sales generated in calendar year 2014 and  
7 due under RCW 82.16.020(1)(b) or (~~(one)~~) two hundred fifty thousand  
8 dollars, whichever is greater. Incentive payments to participants in  
9 a (~~(utility-owned)~~) community solar project (~~(as defined in RCW~~  
10 82.16.110(2)(a)(ii)) may only account for up to twenty-five percent  
11 of the total allowable credit. Incentive payments (~~(to participants~~  
12 in a company-owned community solar project as defined in RCW  
13 82.16.110(2)(a)(iii) may only account for up to five percent of the  
14 total)) for electricity produced by commercial-scale systems may only  
15 account for up to twenty-five percent of the allowable credit.

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

20 (~~(+2)~~) (4) For any business that has claimed credit for amounts  
21 that exceed the correct amount of the incentive payable under RCW  
22 82.16.120, the amount of tax against which credit was claimed for the  
23 excess payments shall be immediately due and payable. The department  
24 may deduct amounts due from future credits claimed by the business.

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

32 (~~(+3)~~) (b) A business is not liable for excess payments made in  
33 reliance on amounts reported by the Washington State University  
34 extension energy program as due and payable as provided under section  
35 7(19) of this act, if such amounts are later found to be abnormal or  
36 inaccurate due to no fault of the business.

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

1       (6) The right to earn tax credits under this section expires June  
2 30, (~~(2020)~~) 2030. Credits may not be claimed after June 30, (~~(2021)~~)  
3 2031.

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

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

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

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

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

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

25       (5) "Consumer-owned utility" has the same meaning as in RCW  
26 19.280.020.

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

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

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

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

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

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

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

9 (1) Beginning July 1, 2016, the following persons may apply to  
10 the Washington State University extension energy program to receive a  
11 certification authorizing the utility serving the situs of a  
12 renewable energy system in the state of Washington to remit an annual  
13 production incentive for each kilowatt-hour of alternating current  
14 electricity generated by the renewable energy system:

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

17 (b) The nonprofit organization or utility that administers a  
18 community solar project meeting the eligibility requirements outlined  
19 in section 8 of this act and applies for certification on behalf of  
20 each of the project participants.

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

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

30 (b) No new certification may be issued under this section for an  
31 additional system, either residential-scale or commercial-scale, if a  
32 residential-scale or commercial-scale system at the same situs or at  
33 the same billing meter has already been certified under this section.  
34 Instead, an applicant may seek recertification of an expanded system,  
35 as provided in (c) of this subsection.

36 (c) The Washington State University extension energy program may  
37 issue a recertification for a residential-scale or commercial-scale  
38 system if a customer makes investments resulting in an expansion of  
39 the system's nameplate capacity. Such recertification expires on the

1 same day as the original certification for the residential-scale or  
2 commercial-scale system and applies to the entire system the  
3 incentive rates and program rules in effect as of the date of the  
4 recertification.

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

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

10 (b) The utility may terminate its voluntary participation in the  
11 production incentive program by providing notice in writing to the  
12 Washington State University extension energy program to cease issuing  
13 new certifications for renewable energy systems that would be served  
14 by that utility.

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

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

25 (e) A utility's termination of participation does not affect the  
26 utility's obligation to continue to make annual incentive payments  
27 for electricity generated by systems that were certified prior to the  
28 effective date of the notice. The Washington State University  
29 extension energy program must continue to process and issue  
30 certifications for renewable energy systems that were received by the  
31 Washington State University extension energy program before the  
32 effective date of the notice of termination.

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

36 (5)(a) The Washington State University extension energy program  
37 may certify a renewable energy system that is connected to equipment  
38 capable of measuring the electricity production of the system and  
39 interconnecting with the utility's system in a manner that allows the  
40 utility, or the customer at the utility's option, to measure and

1 report to the Washington State University extension energy program  
2 the total amount of electricity produced by the renewable energy  
3 system.

4 (b) If the utility opts to require the customer to report  
5 electricity production data to the Washington State University  
6 extension energy program or opts to provide the report by mail rather  
7 than in an electronic format, the utility must negotiate with the  
8 Washington State University extension energy program a fee-for-  
9 service arrangement that covers the program's costs of obtaining the  
10 electricity production data and incorporating it into an electronic  
11 format. The Washington State University extension energy program must  
12 deposit all revenue generated by this fee into the state general  
13 fund. This fee-for-service arrangement is also applicable to a  
14 utility's exercise of the option of requiring customer reporting or  
15 by mail reporting, described in subsection (18) of this section.

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

19 (a) For community solar projects, five thousand dollars per  
20 project participant;

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

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

23 (7) To obtain certification under this section, a person must  
24 submit to the Washington State University extension energy program an  
25 application, including:

26 (a) An affidavit that the applicant has not previously received a  
27 notice of eligibility from the department under RCW 82.16.120  
28 entitling the applicant to receive annual incentive payments for  
29 electricity generated by the renewable energy system at the same  
30 meter location;

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

33 (c) Any other information the Washington State University  
34 extension energy program deems necessary in determining eligibility  
35 and incentive levels, administering the program, tracking progress  
36 toward achieving the limits on program participation established in  
37 RCW 82.16.130, or facilitating the review of the performance of the  
38 tax preferences by the joint legislative audit and review committee,  
39 as described in section 2 of this act; and

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

6 (ii) The Washington State University extension energy program may  
7 waive the requirement in (d)(i) of this subsection (7), accepting an  
8 application and granting provisional certification prior to proof of  
9 final electrical inspection. Provisional certification expires one  
10 hundred eighty days after issuance, unless the applicant submits  
11 proof of the final electrical inspection from the applicable local  
12 jurisdiction or the Washington State University extension energy  
13 program extends the certification, for a term or terms of thirty  
14 days, due to extenuating circumstances.

15 (8) No incentive payments may be authorized or accrued until the  
16 final electrical inspection and executed interconnection agreement  
17 are submitted to the Washington State University extension energy  
18 program.

19 (9) Within thirty days of receipt of the application for  
20 certification, the Washington State University extension energy  
21 program must notify the applicant and, except when a utility is the  
22 applicant, the utility serving the situs of the system, by mail or  
23 electronically, whether certification has been granted. The  
24 certification notice must state the rate to be paid per kilowatt-hour  
25 of electricity generated by the renewable energy system, as provided  
26 in subsection (12) of this section, subject to any applicable cap on  
27 total annual payment provided in subsection (6) of this section.

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

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

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

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

39 (12) The Washington State University extension energy program  
40 must determine the total incentive rate for a new renewable energy

1 system certification by adding to the base rate any applicable made-  
 2 in-Washington bonus rate. A made-in-Washington bonus rate is provided  
 3 for a renewable energy system or a community solar project with solar  
 4 modules made in Washington or with a wind turbine or tower that is  
 5 made in Washington. Both the base rates and bonus rate vary,  
 6 depending on the fiscal year in which the system is certified and the  
 7 type of renewable energy system being certified, as provided in the  
 8 following table:

9	Fiscal year	Base rate -	Base rate -	Base rate -	Made in
10	of system	residential-scale	commercial-scale	community	Washington
11	certification			solar	bonus
12	2017	\$0.13	\$0.08	\$0.13	\$0.05
13	2018	\$0.11	\$0.06	\$0.10	\$0.05
14	2019	\$0.09	\$0.04	\$0.07	\$0.04
15	2020	\$0.07	\$0.02	\$0.05	\$0.04

16 Certification of a renewable energy system entitles the recipient  
 17 to receive incentive payments for electricity generated for a period  
 18 of ten years from the date the system commences operation or the date  
 19 the system is certified, whichever date is later. For purposes of  
 20 this section, the Washington State University extension energy  
 21 program must define when a renewable energy system commences  
 22 operation and provide notice of such date to the recipient and the  
 23 utility serving the situs of the system.

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

26 (a) For community solar projects in any fiscal year that twenty-  
 27 five percent of available funds for credit that year under RCW  
 28 82.16.130 have been allocated to community solar projects; and

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

34 (14) If the Washington State University extension energy program  
 35 ceases issuing new certifications during a fiscal year or biennium as  
 36 provided in subsection (13) of this section, in the following fiscal  
 37 year or biennium, or when additional funds are available for credit  
 38 such that the thresholds described in subsection (13) of this section

1 are no longer exceeded, the Washington State University extension  
2 energy program shall resume issuing new certifications using a method  
3 of awarding certifications that results in equitable and orderly  
4 allocation of benefits to applicants.

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

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

21 (17) The manufacturer of a renewable energy system component  
22 subject to a bonus rate under subsection (12) of this section may  
23 apply to the Washington State University extension energy program to  
24 receive a determination of eligibility for such bonus rates. The  
25 Washington State University extension energy program must publish a  
26 list of components that have been certified as eligible for such  
27 bonus rates. The Washington State University extension energy program  
28 may assess an equipment certification fee to recover its costs. The  
29 Washington State University extension energy program must deposit all  
30 revenue generated by this fee into the state general fund.

31 (18) Annually, the utility, or the customer at the utility's  
32 option, must report to the Washington State University extension  
33 energy program, by mail or electronically, the amount of gross  
34 kilowatt-hours generated by each renewable energy system since the  
35 prior annual report.

36 (19)(a) The Washington State University extension energy program  
37 must calculate for the year and provide to the utility the amount of  
38 the incentive payment due to each participant and the total amount of  
39 credit against tax due available to the utility under RCW 82.16.130  
40 that has been allocated as annual incentive payments. Upon notice to



1 the Washington State University extension energy program, a utility  
2 may opt to directly perform this calculation and provide its results  
3 to the Washington State University extension energy program.

4 (b) If the Washington State University extension energy program  
5 identifies an abnormal production claim, it must notify the utility,  
6 the department of revenue, and the applicant, and must recommend  
7 withholding payment until the applicant has demonstrated that the  
8 production claim is accurate and valid. The utility is not liable to  
9 the customer for withholding payments pursuant to such recommendation  
10 unless and until the Washington State University extension energy  
11 program notifies the utility to resume incentive payments.

12 (20)(a) The utility must issue the incentive payment within  
13 thirty days of receipt of the information required under subsection  
14 (19)(a) of this section from the Washington State University  
15 extension energy program. The utility must resume the incentive  
16 payments withheld under subsection (19)(b) of this section within  
17 thirty days of receiving notice from the Washington State University  
18 extension energy program that the claim has been demonstrated  
19 accurate and valid and payment should be resumed.

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

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

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

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

33 (22) Persons receiving incentive payments under this section must  
34 keep and preserve, for a period of five years for the duration of the  
35 consumer contract, suitable records as may be necessary to determine  
36 the amount of incentive payments applied for and received. The  
37 Washington State University extension energy program may direct a  
38 utility to cease issuing incentive payments if the records are not  
39 made available for examination upon request. A utility receiving such

1 a directive is not liable to the applicant for any incentive payments  
2 or other damages for ceasing payments pursuant to the directive.

3 (23) The nonpower attributes of the renewable energy system  
4 belong to the utility customer who owns or hosts the system or, in  
5 the case of a community solar project, the participant, and can be  
6 kept, sold, or transferred at the utility customer's discretion  
7 unless, in the case of a utility-owned system, a contract between the  
8 customer and the utility clearly specifies that the attributes will  
9 be retained by the utility.

10 (24) All lists, technical specifications, determinations, and  
11 guidelines developed under this section must be made publicly  
12 available online by the Washington State University extension energy  
13 program.

14 (25) No certification may be issued under this section after June  
15 30, 2020.

16 (26) The Washington State University extension energy program  
17 must establish a one-time fee for applications under this section not  
18 to exceed seventy-five dollars per applicant. The Washington State  
19 University extension energy program must deposit all revenue  
20 generated by this fee into the state general fund. The Washington  
21 State University extension energy program must administer and budget  
22 for the program established in RCW 82.16.120, this section, and  
23 sections 4 and 8 of this act in a manner that ensures its  
24 administrative costs through June 30, 2021, are completely met by the  
25 revenues from this fee. If the Washington State University extension  
26 energy program determines that the fee authorized in this subsection  
27 is insufficient to cover the administrative costs through June 30,  
28 2021, the Washington State University extension energy program must  
29 report to the legislature on costs incurred and fees collected and  
30 demonstrate why a different fee amount or funding mechanism should be  
31 authorized.

32 (27) The Washington State University extension energy program  
33 may, through a public process, develop any program requirements and  
34 policies necessary for the administration of this section, RCW  
35 82.16.120, and sections 2, 6, and 8 of this act. The department is  
36 authorized, in consultation with the Washington State University  
37 extension energy program, to adopt any rules necessary for  
38 administration of the program.

39 (28) Applications, certifications, requests for incentive  
40 payments under this section, and the information contained therein

1 are not deemed tax information under RCW 82.32.330 and are subject to  
2 disclosure.

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

5 (1) The purpose of the community solar project is to facilitate  
6 broad, equitable community investment in and access to solar power.  
7 Beginning July 1, 2016, a utility or nonprofit organization may  
8 organize and administer a community solar project as provided in this  
9 section.

10 (2) A community solar project must have a direct current  
11 nameplate capacity that is no more than five hundred kilowatts and  
12 must have at least ten participants. Except for community solar  
13 projects authorized under subsection (5) of this section, each  
14 participant must be a customer of the utility providing service at  
15 the situs of the community solar project.

16 (3) A utility or nonprofit administrator of a community solar  
17 project must administer the project in a transparent manner that  
18 allows for fair and nondiscriminatory opportunity for participation  
19 by utility customers.

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

26 (5) A public utility district that is engaged in distributing  
27 electricity to more than one retail electric customer in the state  
28 and a joint operating agency organized under chapter 43.52 RCW on or  
29 before January 1, 2016, may enter into an agreement with each other  
30 to construct and own a community solar project that is located on  
31 property owned by a joint operating agency or on property that  
32 receives electric service from a participating public utility  
33 district. Each participant of a community solar project under this  
34 subsection must be a customer of at least one of the public utility  
35 districts that is a party to the agreement with a joint operating  
36 agency to construct and own a community solar project.

37 NEW SECTION. **Sec. 9.** (1) **Findings.** The legislature finds that a  
38 convenient, safe, and environmentally sound system for the recycling

1 of solar modules, minimization of hazardous waste, and recovery of  
2 commercially valuable materials must be established. The legislature  
3 further finds that the responsibility for this system must be shared  
4 among all stakeholders, with manufacturers financing the takeback and  
5 recycling system.

6 (2) **Definitions.** For purposes of this section the following  
7 definitions apply:

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

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

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

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

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

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

25 (v) Imports or has imported a solar module into the United States  
26 that is sold in or into this state. However, if the imported solar  
27 module is manufactured by any person with a presence in the United  
28 States meeting the criteria of manufacturer under (a) through (d) of  
29 this subsection, that person is the manufacturer;

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

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

36 (c) "Rare earth element" means lanthanum, cerium, praseodymium,  
37 neodymium, promethium, samarium, europium, gadolinium, terbium,  
38 dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium,  
39 or scandium.

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

4 (e) "Solar module" means the smallest nondivisible,  
5 environmentally protected, essentially planar assembly of solar  
6 cells, or other solar collector technology and ancillary parts  
7 intended to generate direct current power under sunlight, including  
8 but not limited to interconnections, terminals, and protective  
9 devices such as diodes, that is capable of interconnecting with the  
10 electric grid.

11 (f) "Stewardship plan" means the plan developed by a manufacturer  
12 or its designated stewardship organization for a self-directed  
13 stewardship program.

14 (g) "Stewardship program" means the activities conducted by a  
15 manufacturer or a stewardship organization to fulfill the  
16 requirements of this chapter and implement the activities described  
17 in its stewardship plan.

18 (3) **Program guidance, review, and approval.** The department must  
19 develop guidance for a solar module stewardship and takeback program  
20 to guide manufacturers in preparing and implementing a self-directed  
21 program to ensure the convenient, safe, and environmentally sound  
22 takeback and recycling of solar modules and their components and  
23 materials. By January 1, 2017, the department must establish a  
24 process to develop guidance for solar module stewardship plans by  
25 working with manufacturers, stewardship organizations, and other  
26 stakeholders on the content, review, and approval of stewardship  
27 plans. The department's process must be fully implemented and  
28 stewardship plan guidance completed by January 1, 2018.

29 (4) **Stewardship organization as agent of manufacturer.** A  
30 stewardship organization may be designated to act as an agent on  
31 behalf of a manufacturer or manufacturers in operating and  
32 implementing the stewardship program required under this chapter. Any  
33 stewardship organization that has obtained such designation must  
34 provide to the department a list of the manufacturers and brand names  
35 that the stewardship organization represents within sixty days of its  
36 designation by a manufacturer as its agent, or within sixty days of  
37 removal of such designation.

38 (5) **Stewardship plans.** Each manufacturer must prepare and submit  
39 a stewardship plan to the department by the later of January 1, 2019,

1 or within thirty days of its first sale of a solar module in or into  
2 the state.

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

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

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

11 (iii) Describe how the program will minimize the release of  
12 hazardous substances into the environment and maximize the recovery  
13 of other components, including rare earth elements and commercially  
14 valuable materials;

15 (iv) Provide for takeback of solar modules at locations that are  
16 within the region of the state in which the solar modules were used  
17 and are as convenient as reasonably practicable, and if no such  
18 location within the region of the state exists, include an  
19 explanation for the lack of such location;

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

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

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

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

36 (6) **Plan approval.** The department shall approve a stewardship  
37 plan if it determines the plan addresses each element outlined in the  
38 department's guidance.

39 (7) **Annual report.** (a) Beginning April 1, 2021, and by April 1st  
40 in each subsequent year, a manufacturer, or its designated

1 stewardship organization, must provide to the department a report for  
2 the previous calendar year that documents implementation of the plan  
3 and assesses achievement of the performance goals established in  
4 subsection (5)(a)(vi) of this section.

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

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

11 (8) **Enforcement.** Beginning January 1, 2020, no manufacturer may  
12 sell or offer for sale a solar module in or into the state unless the  
13 manufacturer has submitted to the department a stewardship plan and  
14 received plan approval. The department shall send a written warning  
15 to a manufacturer that is not participating in a plan. The written  
16 warning must inform the manufacturer that it must submit a plan or  
17 participate in a plan within thirty days of the notice. The  
18 department may assess a penalty of up to ten thousand dollars for  
19 each sale of a solar module in or into the state that occurs after  
20 the initial written warning. A manufacturer may appeal a penalty  
21 issued under this section to the superior court of Thurston county  
22 within one hundred eighty days of receipt of the notice.

23 (9) **Fee.** The department may collect a flat fee from participating  
24 manufacturers to recover costs associated with the plan guidance,  
25 review, and approval process described in subsection (3) of this  
26 section. Other administrative costs incurred by the department for  
27 program implementation activities, including stewardship plan review  
28 and approval, enforcement, and any rule making, may be recovered by  
29 charging every manufacturer an annual fee calculated by dividing  
30 department administrative costs by the manufacturer's pro rata share  
31 of the Washington state solar module sales in the most recent  
32 preceding calendar year, based on best available information. The  
33 sole purpose of assessing the fees authorized in this subsection is  
34 to predictably and adequately fund the department's costs of  
35 administering the solar module recycling program.

36 (10) **Account.** The solar module recycling account is created in  
37 the custody of the state treasurer. All fees collected from  
38 manufacturers under this chapter must be deposited in the account.  
39 Expenditures from the account may be used only for administering this  
40 chapter. Only the director of the department or the director's

1 designee may authorize expenditures from the account. The account is  
2 subject to the allotment procedures under chapter 43.88 RCW, but an  
3 appropriation is not required for expenditures. Funds in the account  
4 may not be diverted for any purpose or activity other than those  
5 specified in this section.

6 (11) **Rule making.** The department may adopt rules as necessary for  
7 the purpose of implementing, administering, and enforcing this  
8 chapter.

9 (12) **National program.** In lieu of preparing a stewardship plan  
10 and as provided by subsection (5) of this section, a manufacturer may  
11 participate in a national program for the convenient, safe, and  
12 environmentally sound takeback and recycling of solar modules and  
13 their components and materials. The department must determine that  
14 the manufacturer's participation in the national program is likely to  
15 achieve environmental outcomes in the state of Washington  
16 substantially equivalent to those achieved by a departmentally  
17 approved stewardship plan and is likely to be more cost-effective for  
18 the manufacturer than participation in a departmentally approved  
19 stewardship plan. The department may determine substantial  
20 equivalence if it determines that the national program adequately  
21 addresses each of the elements of a stewardship plan outlined in  
22 subsection (5)(a) of this section and includes an enforcement  
23 mechanism reasonably calculated to ensure a manufacturer's compliance  
24 with the national program. Upon issuing a determination of  
25 substantial equivalence, the department must notify affected  
26 stakeholders including the manufacturer. If the national program is  
27 discontinued or the department determines the national program no  
28 longer provides equivalent environmental outcomes in Washington, the  
29 department must notify the manufacturer. The manufacturer must  
30 provide a stewardship plan as described in subsection (5)(a) of this  
31 section to the department for approval within thirty days of  
32 notification.

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

35 (1)(a) Except as provided in RCW 82.08.963, purchasers who have  
36 paid the tax imposed by RCW 82.08.020 on machinery and equipment used  
37 directly in generating electricity using fuel cells, wind, sun,  
38 biomass energy, tidal or wave energy, geothermal resources, anaerobic  
39 digestion, technology that converts otherwise lost energy from



1 exhaust, or landfill gas as the principal source of power, or to  
2 sales of or charges made for labor and services rendered in respect  
3 to installing such machinery and equipment, are eligible for an  
4 exemption as provided in this section, but only if the purchaser  
5 develops with such machinery, equipment, and labor a facility capable  
6 of generating not less than one thousand watts of electricity.

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

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

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

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

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

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

36 (d)(i) "Machinery and equipment" means fixtures, devices, and  
37 support facilities that are integral and necessary to the generation  
38 of electricity using fuel cells, wind, sun, biomass energy, tidal or  
39 wave energy, geothermal resources, anaerobic digestion, technology

1 that converts otherwise lost energy from exhaust, or landfill gas as  
2 the principal source of power.

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

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

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

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

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

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

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

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

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

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

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

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

1 that are permanently affixed to and become a physical part of a  
2 building;

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

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

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

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

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

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

35 (b) Beginning on July 1, 2009, through June 30, 2011, the  
36 provisions of this chapter do not apply in respect to the use of  
37 machinery and equipment described in (a) of this subsection that are  
38 used directly in generating electricity or to sales of or charges

1 made for labor and services rendered in respect to installing such  
2 machinery and equipment.

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

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

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

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

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

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

31 (a) To machinery and equipment used directly in the generation of  
32 electricity using solar energy and capable of generating no more than  
33 five hundred kilowatts of electricity, or to sales of or charges made  
34 for labor and services rendered in respect to installing such  
35 machinery and equipment, when first use within this state of such  
36 machinery and equipment, or labor and services, occurs after June 30,  
37 2016; and

38 (b) To any other machinery and equipment described in subsection  
39 (1)(a) of this section, or to sales of or charges made for labor and  
40 services rendered in respect to installing such machinery or

1 equipment, when first use within this state of such machinery and  
2 equipment, or labor and services, occurs after December 31, 2019.

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

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

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

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

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

14 (a) To the use of machinery and equipment used directly in the  
15 generation of electricity using solar energy, or to the use of labor  
16 and services rendered in respect to installing such machinery and  
17 equipment, when first use within this state of such machinery and  
18 equipment, or labor and services, occurs after June 30, 2016; and

19 (b) To the use of any machinery or equipment used directly in  
20 producing thermal heat using solar energy, or to the use of labor and  
21 services rendered in respect to installing such machinery or  
22 equipment, when first use within this state of such machinery and  
23 equipment, or labor and services, occurs after June 30, 2018.

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

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

27 NEW SECTION. **Sec. 15.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of  
29 the state government and its existing public institutions, and takes  
30 effect immediately."

31 Correct the title.

EFFECT: The striking amendment makes the following changes:

(1) Makes technical corrections to clarify that to obtain the incentive at current law rates through June 2020, a person must apply to the Department of Revenue by May 31, 2016, and that existing participants may receive a payment for all 12 months of the current fiscal year.

(2) Requires the Washington State University Extension Energy Program (WSU) to collect system operation data, including tilt, azimuth, shading, and global positioning system coordinates, from existing participants, and requires that any additional information must be submitted as a condition of retaining certification to receive any payments otherwise due from utilities beginning with the program year ending June 30, 2017.

(3) Makes a technical correction to provide that the Department of Revenue may deduct excess payments made to a utility from future public utility tax credits due to the utility, not from incentive payments made by the utility.

(4) States that the intent of the Community Solar Project is to facilitate broad, equitable community investment in and access to solar power.

(5) Provides that each participant in a Community Solar Project that is the subject of a joint ownership and construction agreement between a Public Utility District (PUD) and a Joint Operating Agency must be a customer of at least one of the participating PUDs, requires a participating PUD to be engaged in distributing electricity to more than one retail electric customer, requires the Joint Operating Agency to be in existence on or before January 1, 2016, and requires the project to be located on property owned by the Joint Operating Agency or on property that receives electrical service from a participating PUD.

(6) Clarifies that the Department of Ecology (Ecology): (a) May collect a flat fee from participating manufacturers to recover costs associated with the plan guidance, review, and approval process that must be completed by January 1, 2018; and (b) may recover other administrative costs through an annual fee based on each participating manufacturer's pro rata share of state solar module sales in the preceding calendar year.

(7) Narrows the definition of solar modules covered by the Solar Module Stewardship Takeback and Recycling Program, providing that the program only applies to solar modules capable of interconnecting to the electric grid.

(8) Provides that a manufacturer may participate in a national program in lieu of preparing a stewardship plan under the state program, if Ecology determines that such participation is likely to achieve environmental outcomes in Washington that are substantially equivalent to those achieved by a departmentally approved stewardship plan and is likely to be more cost-effective for the manufacturer (substantial equivalence may be found if Ecology determines that the national program adequately addresses each of the elements of a stewardship plan and includes an enforcement mechanism reasonably calculated to ensure compliance).

(9) Provides that if a national program is discontinued or no longer provides equivalent environmental outcomes in the state, Ecology must notify the manufacturer and the manufacturer must submit a stewardship plan for approval within 30 days.

(10) Eliminates stakeholder group on orphan modules.

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