

E2SHB 2346 - H AMD 975

By Representative Morris

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) Installation of one hundred fifteen megawatts of solar
26 photovoltaic capacity by participants in the incentive program
27 between July 1, 2016, and June 30, 2020; and

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

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

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

36 (6) In order to obtain the data necessary to perform the review,
37 the joint legislative audit and review committee may refer to data
38 collected by the Washington State University extension energy program
39 and may obtain employment data from the employment security
40 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 June 30, 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 (6) If requests for the investment cost recovery incentive exceed
8 the amount of funds available for credit to the participating light
9 and power business, the incentive payments must be reduced
10 proportionately, unless and until additional funds for credit become
11 available.

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

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

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

23 (10) Beginning July 1, 2016, program management, technical
24 review, and tracking responsibilities of the department under this
25 section are transferred to the Washington State University extension
26 energy program. At the earliest date practicable and no later than
27 June 30, 2016, the department must transfer all records necessary for
28 the 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) to continue to receive the
4 investment cost recovery incentive must apply to the Washington State
5 University extension energy program for a certification authorizing
6 the utility serving the situs of the renewable energy system to remit
7 an investment cost recovery incentive for each kilowatt-hour
8 generated by the renewable energy system ending June 30, 2020.

9 (3)(a) The Washington State University extension energy program
10 must establish an application process and form by which to collect
11 the system operation data described in section 7(7)(b) of this act
12 from each person or community solar project administrator applying
13 for a certification. The Washington State University extension energy
14 program must notify any applicant that providing this data is a
15 condition of certification and that any certification issued pursuant
16 to this section is void as of June 30, 2017, if the applicant has
17 failed to provide the data by that date.

18 (b) A person or community solar project administrator whose
19 incentive payment has been reduced proportionately by a light and
20 power business pursuant to RCW 82.16.120(6) may, as part of the
21 application for certification under this section, authorize the
22 Washington State University extension energy program to notify and
23 coordinate with the utility serving the situs of the renewable energy
24 system to account for and remit, with the next annual incentive
25 payment notification, payment of a one-time investment cost recovery
26 incentive payment to make whole the rates they anticipated when they
27 first received notice of eligibility from the department under RCW
28 82.16.120.

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

31 (1) A light and power business shall be allowed a credit against
32 taxes due under this chapter in an amount equal to (~~investment cost~~
33 ~~recovery~~) incentive payments made in any fiscal year under RCW
34 82.16.120 and section 7 of this act, and any credit a utility is
35 allowed to recover costs pursuant to section 7(5) of this act.

36 (2) The credits ((shall)) must be taken in a form and manner as
37 required by the department. The credit under this section for the
38 fiscal year may not exceed (~~one-half~~) two percent of the
39 businesses' taxable power sales generated in calendar year 2014 and

1 due under RCW 82.16.020(1)(b) or ~~((one))~~ two hundred fifty thousand
2 dollars, whichever is greater. Incentive payments to participants in
3 a ~~((utility-owned))~~ community solar project ~~((as defined in RCW~~
4 ~~82.16.110(2)(a)(ii))~~) may only account for up to twenty-five percent
5 of the total allowable credit. Incentive payments ~~((to participants~~
6 ~~in a company-owned community solar project as defined in RCW~~
7 ~~82.16.110(2)(a)(iii) may only account for up to five percent of the~~
8 ~~total))~~ for electricity produced by commercial-scale systems may only
9 account for up to twenty-five percent of the allowable credit.

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

14 ~~((+2))~~ (4) For any business that has claimed credit for amounts
15 that exceed the correct amount of the incentive payable under RCW
16 82.16.120, the amount of tax against which credit was claimed for the
17 excess payments shall be immediately due and payable. The department
18 may deduct amounts due from future credits claimed by the business.

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

26 ~~((+3))~~ (b) A business is not liable for excess payments made in
27 reliance on amounts reported by the Washington State University
28 extension energy program as due and payable as provided under section
29 7(19) of this act, if such amounts are later found to be abnormal or
30 inaccurate due to no fault of the business.

31 (5) The amount of credit taken under this section is not
32 confidential taxpayer information under RCW 82.32.330 and is subject
33 to disclosure.

34 (6) The right to earn tax credits under this section expires June
35 30, ~~((2020))~~ 2027. Credits may not be claimed after June 30, ~~((2021))~~
36 2028.

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

1 The definitions in this section apply throughout this section and
2 sections 7, 8, and 9 of this act unless the context clearly requires
3 otherwise.

4 (1) "Certification" means the authorization issued by the
5 Washington State University extension energy program establishing a
6 person's eligibility to receive annual incentive payments from the
7 person's utility for a term of seven years.

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

13 (3) "Community solar project" means a solar energy system that
14 has a direct current nameplate generating capacity that is no larger
15 than five hundred kilowatts and meets the applicable eligibility
16 requirements established in sections 7 and 9 of this act.

17 (4) "Community solar program" means a program organized and
18 administered by a utility or a nonprofit organization to develop
19 community solar projects pursuant to section 9 of this act.

20 (5) "Consumer-owned utility" has the same meaning as in RCW
21 19.280.020.

22 (6) "Customer-owner" means the owner of a residential-scale or
23 commercial-scale renewable energy system, where such owner is not a
24 utility and such owner is a customer of the utility and either owns
25 the premises where the renewable energy system is installed or
26 occupies the premises.

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

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

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

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

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

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

3 (1) Beginning July 1, 2016, the following persons may apply to
4 the Washington State University extension energy program to receive a
5 certification authorizing the utility serving the situs of a
6 renewable energy system in the state of Washington to remit an annual
7 production incentive for each kilowatt-hour of alternating current
8 electricity generated by the renewable energy system:

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

11 (b) The nonprofit organization or utility that administers a
12 community solar project meeting the eligibility requirements outlined
13 in section 9 of this act and applies for certification on behalf of
14 each of the project participants.

15 (2) No person, business, or household is eligible to receive
16 incentive payments provided under subsection (1)(a) of this section
17 of more than five thousand dollars per year for residential systems
18 or community solar projects, or twenty-five thousand dollars per year
19 for commercial-scale systems.

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

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

32 (c) The Washington State University extension energy program may
33 issue a recertification for a residential-scale or commercial-scale
34 system if a customer makes investments resulting in an expansion of
35 the system's nameplate capacity. Such recertification expires on the
36 same day as the original certification for the residential-scale or
37 commercial-scale system and applies to the entire system the
38 incentive rates and program rules in effect as of the date of the
39 recertification.

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

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

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

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

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

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

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

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

1 (b) The Washington State University extension energy program must
2 establish a reporting and fee-for-service system to accept
3 electricity production data from the utility or the customer, with
4 the reporting entity selected at the utility's option as described in
5 subsection (18) of this section. The fee-for-service agreement must
6 allow for electronic reporting or reporting by mail, may be specific
7 to individual utilities, and must recover only the program's costs of
8 obtaining the electricity production data and incorporating it into
9 an electronic format. A statement of the amount due for the fee-for-
10 service shall be provided to the utility by the Washington State
11 University extension energy program with the report provided to the
12 utility pursuant to subsection (19)(a) of this section. The utility
13 may determine how to assess and remit the fee, and the utility shall
14 be allowed a credit for fees paid under this subsection (5) against
15 taxes due, as provided in RCW 82.16.130(1).

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, estimated 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 seven years and entitles the
29 applicant or, in the case of a community solar project, the
30 participant, to receive incentive payments for electricity generated
31 for a period of seven years from the date the renewable energy system
32 commences operation, or the date the system is certified, whichever
33 date is later. For purposes of this subsection, the Washington State
34 University extension energy program must define when a renewable
35 energy system commences operation and provide notice of such date to
36 the recipient and the utility serving the situs of the system.
37 Certification may not be retroactively changed except to correct
38 later discovered errors that were made during the original
39 application or certification process.

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

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

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

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

19 Fiscal year	Base rate -	Base rate -	Base rate -	Made in
20 of system	residential-scale	commercial-scale	community	Washington
21 certification			solar	bonus
22 2017	\$0.18	\$0.08	\$0.18	\$0.08
23 2018	\$0.16	\$0.06	\$0.16	\$0.08
24 2019	\$0.14	\$0.04	\$0.14	\$0.07
25 2020	\$0.12	\$0.02	\$0.12	\$0.07

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

28 (a) For community solar projects in any fiscal year for which the
29 Washington State University extension energy program estimates that
30 twenty-five percent of available funds for credit have been allocated
31 to community solar projects;

32 (b) For commercial-scale systems in any fiscal year for which the
33 Washington State University extension energy program estimates that
34 twenty-five percent of available funds for credit have been allocated
35 to commercial-scale systems; and

36 (c) For any renewable energy system served by a utility, if
37 certification is likely to result in incentive payments by that

1 utility exceeding the utility's available funds for credit under RCW
2 82.16.130.

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

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

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

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

38 (18) Annually, the utility must report electronically to the
39 Washington State University extension energy program the amount of
40 gross kilowatt-hours generated by each renewable energy system since

1 the prior annual report. For the purposes of this section, to report
2 electronically means to submit statistical or factual information in
3 alphanumeric form through a web site established by the Washington
4 State University extension energy program or in a list, table,
5 spreadsheet, or other nonnarrative format that can be digitally
6 transmitted or processed. The utility may instead opt to report by
7 mail or require program participants to report individually, but if
8 the utility exercises one or more of these options it must negotiate
9 with the Washington State University extension energy program the
10 fee-for-service arrangement described in subsection (5)(b) of this
11 section.

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

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

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

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

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

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

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

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

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

26 (24) All lists, technical specifications, determinations, and
27 guidelines developed under this section must be made publicly
28 available online by the Washington State University extension energy
29 program.

30 (25) No certification may be issued under this section after June
31 30, 2020.

32 (26) The Washington State University extension energy program
33 must collect a one-time fee for applications under this section of
34 one hundred dollars per applicant. The Washington State University
35 extension energy program must deposit all revenue generated by this
36 fee into the state general fund. The Washington State University
37 extension energy program must administer and budget for the program
38 established in RCW 82.16.120, this section, and sections 4 and 9 of
39 this act in a manner that ensures its administrative costs through
40 June 30, 2021, are completely met by the revenues from this fee. If

1 the Washington State University extension energy program determines
2 that the fee authorized in this subsection is insufficient to cover
3 the administrative costs through June 30, 2021, the Washington State
4 University extension energy program must report to the legislature on
5 costs incurred and fees collected and demonstrate why a different fee
6 amount or funding mechanism should be authorized.

7 (27) The Washington State University extension energy program
8 may, through a public process, develop any program requirements and
9 policies necessary for the administration of this section, RCW
10 82.16.120, and sections 2, 6, and 9 of this act. The department is
11 authorized, in consultation with the Washington State University
12 extension energy program, to adopt any rules necessary for
13 administration of the program.

14 (28) Applications, certifications, requests for incentive
15 payments under this section, and the information contained therein
16 are not deemed tax information under RCW 82.32.330 and are subject to
17 disclosure.

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

20 (1) The Washington State University extension energy program must
21 cease to issue new certifications for any renewable energy system:

22 (a) In fiscal year 2017, if the installed capacity of
23 certifications under section 7 of this act in fiscal year 2017 has
24 reached nineteen megawatts; and

25 (b) In fiscal year 2018, if the installed capacity of
26 certifications under section 7 of this act in fiscal year 2018 has
27 reached twenty-four megawatts.

28 (2) If the Washington State University extension energy program
29 ceases issuing certifications during a fiscal year as provided in
30 subsection (1) of this section, it shall resume issuing
31 certifications the following fiscal year, using the method described
32 in section 7(14) of this act.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.16
34 RCW to read as follows:

35 (1) The purpose of the community solar project is to facilitate
36 broad, equitable community investment in and access to solar power.
37 Beginning July 1, 2016, a utility or nonprofit organization may

1 organize and administer a community solar project as provided in this
2 section.

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

9 (3) A utility or nonprofit administrator of a community solar
10 project must administer the project in a transparent manner that
11 allows for fair and nondiscriminatory opportunity for participation
12 by utility customers.

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

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

30 (6) Nothing in the requirement that a community solar project be
31 administered and organized by a nonprofit organization or a utility
32 may be construed as intending to preclude persons from investing in
33 or possessing an ownership interest in a community solar project, or
34 from applying for and receiving federal investment tax credits.

35 NEW SECTION. **Sec. 10.** (1) **Findings.** The legislature finds that
36 a convenient, safe, and environmentally sound system for the
37 recycling of solar modules, minimization of hazardous waste, and
38 recovery of commercially valuable materials must be established. The
39 legislature further finds that the responsibility for this system

1 must be shared among all stakeholders, with manufacturers financing
2 the takeback and recycling system.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (f) "Stewardship plan" means the plan developed by a manufacturer
9 or its designated stewardship organization for a self-directed
10 stewardship program.

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

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

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

35 (5) **Stewardship plans.** Each manufacturer must prepare and submit
36 a stewardship plan to the department by the later of January 1, 2019,
37 or within thirty days of its first sale of a solar module in or into
38 the state.

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

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

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

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

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

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

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

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

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

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

36 (7) **Annual report.** (a) Beginning April 1, 2021, and by April 1st
37 in each subsequent year, a manufacturer, or its designated
38 stewardship organization, must provide to the department a report for
39 the previous calendar year that documents implementation of the plan

1 and assesses achievement of the performance goals established in
2 subsection (5)(a)(vi) of this section.

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

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

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

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

34 (10) **Account.** The solar module recycling account is created in
35 the custody of the state treasurer. All fees collected from
36 manufacturers under this chapter must be deposited in the account.
37 Expenditures from the account may be used only for administering this
38 chapter. Only the director of the department or the director's
39 designee may authorize expenditures from the account. The account is
40 subject to the allotment procedures under chapter 43.88 RCW, but an

1 appropriation is not required for expenditures. Funds in the account
2 may not be diverted for any purpose or activity other than those
3 specified in this section.

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

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

31 **Sec. 11.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each
32 amended to read as follows:

33 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
34 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
35 directly in generating electricity using fuel cells, wind, sun,
36 biomass energy, tidal or wave energy, geothermal resources, anaerobic
37 digestion, technology that converts otherwise lost energy from
38 exhaust, or landfill gas as the principal source of power, or to
39 sales of or charges made for labor and services rendered in respect

1 to installing such machinery and equipment, are eligible for an
2 exemption as provided in this section, but only if the purchaser
3 develops with such machinery, equipment, and labor a facility capable
4 of generating not less than one thousand watts of electricity.

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

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

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

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

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

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

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

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

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

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

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

39 (b) The department must determine eligibility under this section
40 based on the information provided by the purchaser, which is subject

1 to audit verification by the department. The department must on a
2 quarterly basis remit exempted amounts to qualifying purchasers who
3 submitted applications during the previous quarter.

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

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

11 **Sec. 12.** RCW 82.08.963 and 2013 2nd sp.s. c 13 s 1602 are each
12 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 **Sec. 14.** RCW 82.12.963 and 2013 2nd sp.s. c 13 s 1603 are each
3 amended to read as follows:

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

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

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

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

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

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

23 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.16
24 RCW to read as follows:

25 (1) Any person who sells a solar module to a customer-owner, or
26 who receives compensation from a customer-owner in exchange for
27 installing a solar module for use in a residential-scale system or
28 commercial-scale system in Washington must provide to the customer-
29 owner current information regarding the tax incentives available to
30 the customer-owner under Washington law, including the scheduled
31 expiration date of any tax incentives and the maximum period of time
32 during which the customer-owner may benefit from any tax incentives,
33 based on the law as it existed on the date of sale or installation of
34 the solar module.

35 (2) The definitions in section 6 of this act apply to this
36 section.

37 (3) For the purposes of this section, "solar module" has the same
38 meaning as defined in RCW 82.16.110.

1 (4) The legislature finds that the practices covered by this
2 section are matters vitally affecting the public interest for the
3 purpose of applying the consumer protection act, chapter 19.86 RCW. A
4 violation of this section is not reasonable in relation to the
5 development and preservation of business and is an unfair or
6 deceptive act or practice in the conduct of trade or commerce and an
7 unfair method of competition. Except for entities subject to the
8 jurisdiction of the utilities and transportation commission,
9 violations of this section may be enforced by the attorney general
10 under the consumer protection act, chapter 19.86 RCW.

11 NEW SECTION. **Sec. 16.** Section 10 of this act constitutes a new
12 chapter in Title 70 RCW.

13 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of
15 the state government and its existing public institutions, and takes
16 effect immediately."

17 Correct the title.

EFFECT: Makes the following changes:

(1) Reduces the number of years of incentive payments that a participant in the program can receive, from 10 years down to 7 years.

(2) Raises the base incentive rate for residential systems by \$.05 per kilowatt-hour (kwh), raises the base rate for community solar systems by \$.05 to \$.07 per kwh, and raises the made-in-Washington bonus rate by \$.07 or \$.08 per kwh.

(3) Provides that an existing participant who has been issued a new certification by the Washington State University Extension Energy Program (WSU) must provide system operations information (such as tilt, azimuth, and shading) by June 30, 2017, or the new certification will be void.

(4) Establishes caps, limiting the total installed capacity of systems for which WSU may issue certifications: (a) In Fiscal Year 2017 to 19 megawatts; and (b) in Fiscal Year 2018 to 24 megawatts.

(5) With respect to the fee-for-service agreement with WSU, specifies that the utility may determine how to assess and remit the fee that it owes to WSU, authorizes the utility to deduct the fee-for-service amount from the credit available to the utility, and removes the requirement that WSU must deposit the revenue from the fee into the state general fund.

(6) Requires any person who sells a solar module or receives compensation in exchange for installing a solar module to provide the customer-owner with current information regarding the tax incentives available under current law, including the scheduled expiration dates, and establishes that a violation of this requirement is an unfair or deceptive act or practice under the consumer protection

act, except for entities subject to the jurisdiction of the Utilities and Transportation Commission.

(7) Eliminates an administrative fee of \$75 for existing participants, and raises the certification fee for new participants to \$100.

(8) Includes a disclaimer that the requirement that community solar projects be organized and administered by utilities or nonprofits is not intended to preclude persons from investing in or possessing an ownership interest in a project, or from applying for and receiving federal investment tax credits.

(9) Makes technical clarifications, including that a "customer-owner" must be a customer of the utility, that incentive payments are capped at \$5,000 for a residential-scale system or individual participant in a community solar project, and that WSU must cease to issue certifications for commercial-scale systems in any fiscal year in which 25 percent of funds available for credit have been allocated to commercial-scale systems.

(10) Provides that existing participants whose payments have been proportionally reduced due to lack of available funds may apply to WSU to authorize reimbursement of the amount that was proportionately reduced.

(11) Provides for expiration of the public utility tax credit funding the incentive program in 2028, rather than 2031.

(12) Defines electronic reporting, for purposes of the requirement that utilities report electricity production data for renewable energy systems electronically to WSU.

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