

SHB 2248 - H AMD 1477

By Representative Doglio

ADOPTED 02/27/2020

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
4 that stimulating local investment in community solar projects
5 continues to be an important part of a state energy strategy by
6 helping to increase energy independence from fossil fuels, promote
7 economic development, hedge against the effects of climate change,
8 and attain environmental benefits. The legislature finds that while
9 previous community solar programs were successful in stimulating
10 these benefits, the programs failed to provide an adequate framework
11 for low-income participation and long-term market certainty. The
12 legislature finds that the vast majority of Washingtonians still do
13 not have access to the benefits of solar energy. The legislature
14 intends to stimulate the deployment of community solar projects for
15 the benefit of all Washingtonians by funding the renewable energy
16 production incentive program for community solar projects and by
17 creating opportunities for broader participation, especially by low-
18 income households and low-income service providers. As of December
19 2019, the state is thirteen megawatts short of the one hundred
20 fifteen megawatts of solar photovoltaic capacity established as a
21 goal under RCW 82.16.155. The legislature therefore intends to
22 provide an incentive sufficient to promote installation of community
23 solar projects through June 30, 2031, at which point the legislature
24 expects to review the effectiveness of enhancing access to community
25 solar projects.

26 (2) The legislature finds that participation of low-income
27 customers in community solar projects is consistent with the goals
28 and intent of the energy assistance provisions of chapter 19.405 RCW,
29 the Washington clean energy transformation act, when this
30 participation achieves a reduction in energy burden for the
31 customers.

1 (3) The legislature also finds that offering energy assistance
2 through renewable energy programs, including community solar, at a
3 discount to low-income customers is consistent with the goal and
4 intent of RCW 80.28.068.

5 **Sec. 2.** RCW 82.16.130 and 2017 3rd sp.s. c 36 s 4 are each
6 amended to read as follows:

7 (1) A light and power business is allowed a credit against taxes
8 due under this chapter in an amount equal to:

9 (a) Incentive payments made in any fiscal year under RCW
10 82.16.120 and 82.16.165; and

11 (b) Any fees a utility is allowed to recover pursuant to RCW
12 82.16.165(5).

13 (2) The credits must be taken in a form and manner as required by
14 the department. The credit taken under this section for the fiscal
15 year may not exceed one and one-half percent of the (~~businesses'~~)
16 business's taxable power sales generated in calendar year 2014 and
17 due under RCW 82.16.020(1)(b) or two hundred fifty thousand dollars,
18 whichever is greater, for incentive payments made for the following:

19 (a) Renewable energy systems, other than community solar
20 projects, that are certified for an incentive payment as of June 30,
21 2020; and

22 (b) Community solar projects that are under precertification
23 status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are
24 certified for an incentive payment in accordance with the terms of
25 that precertification by June 30, 2021.

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

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

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

1 the date the credit was claimed, and accrues until the taxes against
2 which the credit was claimed are repaid.

3 (b) A business is not liable for excess payments made in reliance
4 on amounts reported by the Washington State University extension
5 energy program as due and payable as provided under RCW
6 82.16.165(20), if such amounts are later found to be abnormal or
7 inaccurate due to no fault of the business.

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

11 (6) The right to earn tax credits for incentive payments made
12 under RCW 82.16.120 expires June 30, 2020. Credits may not be claimed
13 after June 30, 2021.

14 (7) (a) The right to earn tax credits for incentive payments made
15 under RCW 82.16.165 for the following expires June 30, 2029:

16 (i) Renewable energy systems, other than community solar
17 projects, that are certified for an incentive payment as of June 30,
18 2020; and

19 (ii) Community solar projects that are under precertification
20 status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are
21 certified for an incentive payment in accordance with the terms of
22 that precertification by June 30, 2021.

23 (b) Credits may not be claimed after June 30, 2030.

24 (8) This section expires June 30, 2031.

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

27 (1) Beginning July 1, 2020, a light and power business is allowed
28 a credit against taxes due under this chapter in an amount equal to
29 incentive payments made in any fiscal year under section 7 of this
30 act.

31 (2) The credits must be taken in a form and manner as required by
32 the department. The credit taken under this section for the fiscal
33 year may not exceed one and one-half percent of the business's
34 taxable power sales generated in calendar year 2014 and due under RCW
35 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is
36 greater, for incentive payments made for community solar projects
37 that submit an application for precertification under section 7 of
38 this act on or after July 1, 2020, and that are certified for an

1 incentive payment in accordance with the terms of that
2 precertification by June 30, 2031.

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

7 (4) For any business that has claimed credit for amounts that
8 exceed the correct amount of the incentive payable under section 7 of
9 this act, the amount of tax against which credit was claimed for the
10 excess payments is immediately due and payable. The department may
11 deduct amounts from future credits claimed by the business.

12 (a) Except as provided in (b) of this subsection, the department
13 must assess interest but not penalties on the taxes against which the
14 credit was claimed. Interest may be assessed at the rate provided for
15 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
16 date the credit was claimed, and accrues until the taxes against
17 which the credit was claimed are repaid.

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

23 (5) The amount of credit taken under this section is not
24 confidential taxpayer information under RCW 82.32.330 and is subject
25 to disclosure.

26 (6) The right to earn tax credits for incentive payments made
27 under section 7 of this act expires June 30, 2034. Credits may not be
28 claimed under this section after June 30, 2035.

29 (7) This section expires June 30, 2036.

30 **Sec. 4.** RCW 82.16.160 and 2017 3rd sp.s. c 36 s 5 are each
31 amended to read as follows:

32 (1) The definitions in this section apply throughout this section
33 and RCW 82.16.165(~~(, 82.16.170)~~) and 82.16.175 unless the context
34 clearly requires otherwise.

35 ~~((1))~~ (a) "Administrator" means the utility, nonprofit, or
36 other local housing authority that organizes and administers a
37 community solar project as provided in RCW 82.16.165 and 82.16.170.

38 ~~((2))~~ (b) "Certification" means the authorization issued by the
39 Washington State University extension energy program establishing a

1 person's eligibility to receive annual incentive payments from the
2 person's utility for the program term.

3 ~~((3))~~ (c) "Commercial-scale system" means a renewable energy
4 system or systems other than a community solar project or a shared
5 commercial solar project with a combined nameplate capacity greater
6 than twelve kilowatts that meets the applicable system eligibility
7 requirements established in RCW 82.16.165.

8 ~~((4))~~ (d) "Community solar project" means a solar energy system
9 that has a direct current nameplate generating capacity that is no
10 larger than one thousand kilowatts and meets the applicable
11 eligibility requirements established in RCW 82.16.165 and 82.16.170.

12 ~~((5))~~ (e) "Consumer-owned utility" has the same meaning as in
13 RCW 19.280.020.

14 ~~((6))~~ (f) "Customer-owner" means the owner of a residential-
15 scale or commercial-scale renewable energy system, where such owner
16 is not a utility and such owner is a customer of the utility and
17 either owns the premises where the renewable energy system is
18 installed or occupies the premises.

19 ~~((7))~~ (g) "Electric utility" or "utility" means a consumer-
20 owned utility or investor-owned utility as those terms are defined in
21 RCW 19.280.020.

22 ~~((8))~~ (h) "Governing body" has the same meaning as provided in
23 RCW 19.280.020.

24 ~~((9))~~ (i) "Person" means any individual, firm, partnership,
25 corporation, company, association, agency, or any other legal entity.

26 ~~((10))~~ (j) "Program term" means: ~~((a))~~ (i) For community
27 solar projects that are certified under RCW 82.16.165, eight years or
28 until cumulative incentive payments for electricity produced by the
29 project reach fifty percent of the total system price, including
30 applicable sales tax, whichever occurs first; and ~~((b))~~ (ii) for
31 other renewable energy systems, including shared commercial solar
32 projects, eight years or until cumulative incentive payments for
33 electricity produced by a system reach fifty percent of the total
34 system price, including applicable sales tax, whichever occurs first.

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

39 ~~((12))~~ (l) "Residential-scale system" means a renewable energy
40 system or systems located at a single situs with combined nameplate

1 capacity of twelve kilowatts or less that meets the applicable system
2 eligibility requirements established in RCW 82.16.165.

3 ~~((13))~~ (m) "Shared commercial solar project" means a solar
4 energy system, owned or administered by an electric utility, with a
5 combined nameplate capacity of greater than one megawatt and not more
6 than five megawatts and meets the applicable eligibility requirements
7 established in RCW 82.16.165 and 82.16.175.

8 (2) This section expires June 30, 2031.

9 **Sec. 5.** RCW 82.16.165 and 2017 3rd sp.s. c 36 s 6 are each
10 amended to read as follows:

11 (1) Beginning July 1, 2017, and through June 30, 2020, the
12 following persons may submit a one-time application to the Washington
13 State University extension energy program to receive a certification
14 authorizing the utility serving the situs of a renewable energy
15 system in the state of Washington to remit an annual production
16 incentive for each kilowatt-hour of alternating current electricity
17 generated by the renewable energy system:

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

20 (b) An administrator of a community solar project meeting the
21 eligibility requirements outlined in RCW 82.16.170(2) and applies for
22 certification on behalf of each of the project participants; or

23 (c) A utility or a business under contract with a utility that
24 administers a shared commercial solar project that meets the
25 eligibility requirements in RCW 82.16.175 and applies for
26 certification on behalf of each of the project participants.

27 (2) No person, business, or household is eligible to receive
28 incentive payments provided under subsection (1) of this section of
29 more than five thousand dollars per year for residential systems or
30 community solar projects, twenty-five thousand dollars per year for
31 commercial-scale systems, or thirty-five thousand dollars per year
32 for shared commercial solar projects.

33 (3) (a) No new certification may be issued under this section to
34 an applicant who submits a request for or receives an annual
35 incentive payment for a renewable energy system that was certified
36 under RCW 82.16.120, or for a renewable energy system served by a
37 utility that has elected not to participate in the incentive program,
38 as provided in subsection (4) of this section.

1 (b) The Washington State University extension energy program may
2 issue a new certification for an additional system installed at a
3 situs with a previously certified system so long as the new system
4 meets the requirements of this section and its production can be
5 measured separately from the previously certified system.

6 (c) The Washington State University extension energy program may
7 issue a recertification for a residential-scale or commercial-scale
8 system if a customer makes investments resulting in an expansion of
9 the system's nameplate capacity. Such recertification expires on the
10 same day as the original certification for the residential-scale or
11 commercial-scale system and applies to the entire system the
12 incentive rates and program rules in effect as of the date of the
13 recertification.

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

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

19 (b) The utility may terminate its voluntary participation in the
20 production incentive program by providing notice in writing to the
21 Washington State University extension energy program to cease issuing
22 new certifications for renewable energy systems that would be served
23 by that utility.

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

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

34 (e) A utility's termination of participation does not affect the
35 utility's obligation to continue to make annual incentive payments
36 for electricity generated by systems that were certified prior to the
37 effective date of the notice. The Washington State University
38 extension energy program must continue to process and issue
39 certifications for renewable energy systems that were received by the

1 Washington State University extension energy program before the
2 effective date of the notice of termination.

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

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

14 (b) The Washington State University extension energy program must
15 establish a reporting and fee-for-service system to accept
16 electricity production data from the utility or the customer that is
17 not reported electronically and with the reporting entity selected at
18 the utility's option as described in subsection (19) of this section.
19 The fee-for-service agreement must allow for electronic reporting or
20 reporting by mail, may be specific to individual utilities, and must
21 recover only the program's costs of obtaining the electricity
22 production data and incorporating it into an electronic format. A
23 statement of the amount due for the fee-for-service must be provided
24 to the utility by the Washington State University extension energy
25 program with the report provided to the utility pursuant to
26 subsection (20)(a) of this section. The utility may determine how to
27 assess and remit the fee, and the utility may be allowed a credit for
28 fees paid under this subsection (5) against taxes due, as provided in
29 RCW 82.16.130(1).

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

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

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

36 (c) For commercial-scale systems, twenty-five thousand dollars;
37 and

38 (d) For shared commercial solar projects, up to thirty-five
39 thousand dollars a year per participant, as determined by the terms
40 of subsection (15) of this section.

1 (7) (a) To obtain certification for the incentive payment provided
2 under subsection (1) of this section by June 30, 2020, for renewable
3 energy systems other than community solar projects, or by June 30,
4 2021, for community solar projects, a person must submit to the
5 Washington State University extension energy program an application,
6 including:

7 (i) A signed statement that the applicant has not previously
8 received a notice of eligibility from the department under RCW
9 82.16.120 entitling the applicant to receive annual incentive
10 payments for electricity generated by the renewable energy system at
11 the same meter location;

12 (ii) A signed statement of the total price, including applicable
13 sales tax, paid by the applicant for the renewable energy system;

14 (iii) System operation data including global positioning system
15 coordinates, tilt, estimated shading, and azimuth;

16 (iv) Any other information the Washington State University
17 extension energy program deems necessary in determining eligibility
18 and incentive levels, administering the program, tracking progress
19 toward achieving the limits on program participation established in
20 RCW 82.16.130, or facilitating the review of the performance of the
21 tax preferences by the joint legislative audit and review committee,
22 as described in RCW 82.16.155; and

23 (v) (A) Except as provided in (a) (v) (B) of this subsection (7),
24 the date that the renewable energy system received its final
25 electrical inspection from the applicable local jurisdiction, as well
26 as a copy of the permit or, if the permit is available online, the
27 permit number;

28 (B) The Washington State University extension energy program may
29 waive the requirement in (a) (v) (A) of this subsection (7), accepting
30 an application and granting provisional certification prior to proof
31 of final electrical inspection. Provisional certification expires one
32 hundred eighty days after issuance, unless the applicant submits
33 proof of the final electrical inspection from the applicable local
34 jurisdiction or the Washington State University extension energy
35 program extends the certification, for a term or terms of thirty
36 days, due to extenuating circumstances; and

37 (b) (i) Prior to obtaining certification under this subsection, a
38 community solar project or shared commercial solar project must apply
39 for precertification against the remaining funds available for
40 incentive payments under subsection (13) (d) of this section in order

1 to be guaranteed an incentive payment under subsection (1) of this
2 section. Community solar projects that are under precertification
3 status under this subsection (7) as of June 30, 2020, may not apply
4 for precertification for the incentive payment provided under section
5 7 of this act for that same project;

6 (ii) A project applicant of a community solar project or shared
7 commercial solar project must complete an application for
8 certification with the Washington State University extension energy
9 program within less than (~~one year~~) two years to retain the
10 precertification status described in this subsection. If a community
11 solar project application is in precertification status as of June
12 30, 2020, the project applicant must continue in that status until
13 either it is certified by the Washington State University extension
14 energy program or its precertification expires; and

15 (iii) The Washington State University extension energy program
16 may design a reservation or precertification system for an applicant
17 of a residential-scale or commercial-scale renewable energy system.

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

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

32 (10) Certification is valid for the program term and entitles the
33 applicant or, in the case of a community solar project or shared
34 commercial solar project, the participant, to receive incentive
35 payments for electricity generated from the date the renewable energy
36 system commences operation, or the date the system is certified,
37 whichever date is later. For purposes of this subsection, the
38 Washington State University extension energy program must define when
39 a renewable energy system commences operation and provide notice of
40 such date to the recipient and the utility serving the situs of the

1 system. Certification may not be retroactively changed except to
2 correct later discovered errors that were made during the original
3 application or certification process.

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

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

10 (ii) The new owner provides an executed interconnection agreement
11 with the utility serving the premises.

12 (b) In the event that a community solar project participant
13 terminates their participation in a community solar project, the
14 system certification follows the system and participation may be
15 transferred to a new participant. The administrator of a community
16 solar project must provide notice to the Washington State University
17 extension energy program of any changes or transfers in project
18 participation.

19 (12) The Washington State University extension energy program
20 must determine the total incentive rate for ~~((a new renewable energy
21 system certification by adding to the base rate any applicable made-
22 in-Washington bonus rate))~~ renewable energy systems, other than a
23 community solar project, certified through June 30, 2020, and for
24 community solar projects precertified as of June 30, 2020, and
25 certified through June 30, 2021, as provided in this subsection. A
26 made-in-Washington bonus rate is provided for a renewable energy
27 system or a community solar project certified through June 30, 2019,
28 with solar modules made in Washington or with a wind turbine or tower
29 that is made in Washington. Both the base rates and bonus rate vary,
30 depending on the fiscal year in which the system is certified and the
31 type of renewable energy system being certified, as provided in the
32 following table:

Fiscal year of system certification	Base rate - residential-scale	Base rate - commercial-scale	Base rate - community solar	Base rate - shared commercial solar	Made in Washington bonus
2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
2020	\$0.12	\$0.02	\$0.12	\$0.02	(\$0.03)

1 2021 ((\$0.10)) ((\$0.02)) \$0.10 ((\$0.02)) ((\$0.02))

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

4 (a) For community solar projects and shared commercial solar
5 projects in any fiscal year for which the Washington State University
6 extension energy program estimates that fifty percent of the
7 remaining funds for credit available to a utility for renewable
8 energy systems certified under this section as of July 1, 2017, have
9 been allocated to community solar projects and shared commercial
10 solar projects combined;

11 (b) For commercial-scale systems in any fiscal year for which the
12 Washington State University extension energy program estimates that
13 twenty-five percent of the remaining funds for credit available to a
14 utility for renewable energy systems certified under this section as
15 of July 1, 2017, have been allocated to commercial-scale systems;

16 (c) For any renewable energy system served by a utility, if
17 certification is likely to result in incentive payments by that
18 utility, including payments made under RCW 82.16.120, exceeding the
19 utility's available funds for credit under RCW 82.16.130; and

20 (d) For any renewable energy system, if certification is likely
21 to result in total incentive payments under this section exceeding
22 one hundred ten million dollars.

23 (14) If the Washington State University extension energy program
24 ceases issuing new certifications during a fiscal year or biennium as
25 provided in subsection (13) of this section, in the following fiscal
26 year or biennium, or when additional funds are available for credit
27 such that the thresholds described in subsection (13) of this section
28 are no longer exceeded, the Washington State University extension
29 energy program must resume issuing new certifications using a method
30 of awarding certifications that results in equitable and orderly
31 allocation of benefits to applicants.

32 (15) A customer who is a participant in a shared commercial solar
33 project may not receive incentive payments associated with the
34 project greater than the difference between the levelized cost of
35 energy output of the system over its production life and the retail
36 rate for the rate class to which the customer belongs. The levelized
37 cost of the output of the energy must be determined by the utility
38 that administers the shared commercial solar project and must be
39 disclosed, along with an explanation of the limitations on incentive

1 payments contained in this subsection (15), in the contractual
2 agreement with the shared commercial solar project participants.

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

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

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

29 (19) Annually, the utility must report electronically to the
30 Washington State University extension energy program the amount of
31 gross kilowatt-hours generated by each renewable energy system since
32 the prior annual report. For the purposes of this section, to report
33 electronically means to submit statistical or factual information in
34 alphanumeric form through a web site established by the Washington
35 State University extension energy program or in a list, table,
36 spreadsheet, or other nonnarrative format that can be digitally
37 transmitted or processed. The utility may instead opt to report by
38 mail or require program participants to report individually, but if
39 the utility exercises one or more of these options it must negotiate
40 with the Washington State University extension energy program the

1 fee-for-service arrangement described in subsection (5)(b) of this
2 section.

3 (20)(a) The Washington State University extension energy program
4 must calculate for the year and provide to the utility the amount of
5 the incentive payment due to each participant and the total amount of
6 credit against tax due available to the utility under RCW 82.16.130
7 that has been allocated as annual incentive payments. Upon notice to
8 the Washington State University extension energy program, a utility
9 may opt to directly perform this calculation and provide its results
10 to the Washington State University extension energy program.

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

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

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

31 (22) Beginning January 1, 2018, the Washington State University
32 extension energy program must post on its web site and update at
33 least monthly a report, by utility, of:

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

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

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

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

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

22 (26) No certification may be issued under this section by the
23 Washington State University extension energy program for any
24 renewable energy system, other than a community solar project, after
25 June 30, ((2021)) 2020. No certification may be issued under this
26 section for any community solar project after June 30, 2021.

27 (27) The Washington State University extension energy program
28 must collect a one-time fee for applications submitted under
29 subsection (1) of this section of one hundred twenty-five dollars per
30 applicant. The Washington State University extension energy program
31 must deposit all revenue generated by this fee into the state general
32 fund. The Washington State University extension energy program must
33 administer and budget for the program established in RCW 82.16.120,
34 this section, and RCW 82.16.170 in a manner that ensures its
35 administrative costs through June 30, 2022, are completely met by the
36 revenues from this fee. If the Washington State University extension
37 energy program determines that the fee authorized in this subsection
38 is insufficient to cover the administrative costs through June 30,
39 2022, the Washington State University extension energy program must
40 report to the legislature on costs incurred and fees collected and

1 demonstrate why a different fee amount or funding mechanism should be
2 authorized.

3 (28) The Washington State University extension energy program
4 may, through a public process, develop any program requirements,
5 policies, and processes necessary for the administration or
6 implementation of this section, RCW 82.16.120, 82.16.155, and
7 82.16.170. The department is authorized, in consultation with the
8 Washington State University extension energy program, to adopt any
9 rules necessary for administration or implementation of the program
10 established under this section and RCW 82.16.170.

11 (29) Applications, certifications, requests for incentive
12 payments under this section, and the information contained therein
13 are not deemed tax information under RCW 82.32.330 and are subject to
14 disclosure.

15 (30)(a) By November 1, 2019, and in compliance with RCW
16 43.01.036, the Washington State University extension energy program
17 must submit a report to the legislature that includes the following:

18 (i) The number and types of renewable energy systems that have
19 been certified under this section as of July 1, 2019, both statewide
20 and per participating utility;

21 (ii) The number of utilities that are approaching or have reached
22 the credit limit established under RCW 82.16.130(2) or the thresholds
23 established under subsection (13) of this section;

24 (iii) The share of renewable energy systems by type that
25 contribute to each utility's threshold under subsection (13) of this
26 section;

27 (iv) An assessment of the deployment of community solar projects
28 in the state, including but not limited to the following:

29 (A) An evaluation of whether or not community solar projects are
30 being deployed in low-income and moderate-income communities, as
31 those terms are defined in RCW 43.63A.510, including a description of
32 any barriers to project deployment in these communities;

33 (B) A description of the share of community solar projects by
34 administrator type that contribute to each utility's threshold under
35 subsection (13)(a) of this section; and

36 (C) A description of any barriers to participation by nonprofits
37 and local housing authorities in the incentive program established
38 under this section and under RCW 82.16.170;

1 (v) The total dollar amount of incentive payments that have been
2 made to participants in the incentive program established under this
3 section to date; and

4 (vi) The total number of megawatts of solar photovoltaic capacity
5 installed to date by participants in the incentive program
6 established under this section.

7 (b) By December 31, 2019, the legislature must review the report
8 submitted under (a) of this subsection and determine whether the
9 credit limit established under RCW 82.16.130(2) should be increased
10 to two percent of a light and power business's taxable power sales
11 generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or
12 two hundred fifty thousand dollars, whichever is greater, in order to
13 achieve the legislative intent under section 1, chapter 36, Laws of
14 2017 3rd sp. sess.

15 (31) This section expires June 30, 2031.

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

18 (1) The definitions in this section apply throughout this section
19 and section 7 of this act unless the context clearly requires
20 otherwise.

21 (a) "Administrator" means the utility, nonprofit, or other local
22 housing authority that organizes and administers a community solar
23 project as provided in section 7 of this act and RCW 82.16.170.

24 (b) "Certification" means the authorization issued by the
25 Washington State University extension energy program establishing a
26 community solar project administrator's eligibility to receive a low-
27 income community solar incentive payment from the electric utility
28 serving the site of the community solar project, on behalf of, and
29 for the purpose of providing direct benefits to, its low-income
30 subscribers, low-income service provider subscribers, and tribal and
31 public agency subscribers.

32 (c) "Community solar project" means a solar energy system that:

33 (i) Has an alternating current nameplate capacity that is greater
34 than twelve kilowatts but no greater than one hundred ninety-nine
35 kilowatts;

36 (ii) Has, at minimum, either two subscribers or one low-income
37 service provider subscriber; and

38 (iii) Meets the applicable eligibility requirements in section 7
39 of this act and RCW 82.16.170.

1 (d) "Consumer-owned utility" has the same meaning as in RCW
2 19.280.020.

3 (e) "Electric utility" or "utility" means a consumer-owned
4 utility or investor-owned utility as those terms are defined in RCW
5 19.280.020.

6 (f) "Energy assistance" has the same meaning as provided in RCW
7 19.405.020.

8 (g) "Energy burden" has the same meaning as provided in RCW
9 19.405.020.

10 (h) "Governing body" has the same meaning as provided in RCW
11 19.280.020.

12 (i) "Low-income" has the same meaning as provided in RCW
13 19.405.020.

14 (j) "Low-income service provider" includes, but is not limited
15 to, a local community action agency or local community service agency
16 designated by the department of commerce under chapter 43.63A RCW,
17 local housing authority, tribal housing authority, low-income tribal
18 housing program, affordable housing provider, food bank, or other
19 nonprofit organization that provides services to low-income
20 households.

21 (k) "Multifamily residential building" means a building
22 containing more than two sleeping units or dwelling units where
23 occupants are primarily permanent in nature.

24 (l) "Person" means an individual, firm, partnership, corporation,
25 company, association, agency, or any other legal entity.

26 (m) "Public agency" means any political subdivision of the state
27 including, but not limited to, municipal and county governments,
28 special purpose districts, and local housing authorities, but does
29 not include state agencies.

30 (n)(i) Except as otherwise provided in (n)(ii) of this
31 subsection, "qualifying subscriber" means a low-income subscriber,
32 low-income service provider subscriber, tribal agency subscriber, or
33 public agency subscriber.

34 (ii) For tribal agency subscribers and public agency subscribers,
35 only the portion of their subscription to a community solar project
36 that is demonstrated to benefit low-income beneficiaries, including
37 low-income service providers and services provided to low-income
38 citizens or households, is to be considered a qualifying subscriber.

39 (o) "Subscriber" means a retail electric customer of an electric
40 utility who owns or is the beneficiary of one or more subscriptions

1 or ownership shares of a community solar project directly
2 interconnected with that same utility.

3 (p) "Subscription" means an agreement between a subscriber and
4 the administrator of a community solar project.

5 (2) This section expires June 30, 2036.

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

8 (1) Beginning July 1, 2020, through June 30, 2031, an
9 administrator of a community solar project meeting the eligibility
10 requirements described in this section and RCW 82.16.170(3) may
11 submit an application to the Washington State University extension
12 energy program to receive a precertification for a community solar
13 project. Projects with precertification applications approved by the
14 Washington State University extension energy program have two years
15 to complete their projects and apply for certification. By certifying
16 qualified projects pursuant to the requirements of this section and
17 RCW 82.16.170(3), the Washington State University extension energy
18 program authorizes the utility serving the site of a community solar
19 project in the state of Washington to remit a one-time low-income
20 community solar incentive payment to the community solar project
21 administrator, who accepts the payment on behalf of, and for the
22 purpose of providing direct benefits to, the project's qualifying
23 subscribers.

24 (2) A one-time low-income community solar incentive payment
25 remitted to a community solar project administrator for a project
26 certified under this section equals the sum of the following:

27 (a) An amount, not to exceed twenty thousand dollars per
28 community solar project, equal to the community solar project's
29 administrative costs related to administering the project for
30 qualifying subscribers; and

31 (b) An amount that does not exceed one hundred percent of the
32 proportional cost of the share of the community solar project that
33 provides direct benefits to qualifying subscribers.

34 (3) No new certification may be issued under this section to an
35 applicant who receives an annual incentive payment for a community
36 solar project that was certified under RCW 82.16.120 or 82.16.165, or
37 for a community solar project served by a utility that has elected
38 not to participate in the incentive program provided in this section.

1 (4) Community solar projects that are under precertification
2 status under RCW 82.16.165 as of June 30, 2020, may not apply for
3 precertification of that same project for the one-time low-income
4 community solar incentive payment provided in this section.

5 (5)(a) In addition to the one-time low-income community solar
6 incentive payment under subsection (2) of this section, a
7 participating utility must also provide the administrator of a
8 community solar project certified under this section the following
9 compensation for the generation of electricity from the certified
10 project:

11 (i) For a community solar project that has an alternating current
12 nameplate capacity greater than twelve kilowatts but no greater than
13 one hundred kilowatts, and that is connected behind the electric
14 service meter, compensation must be determined in accordance with RCW
15 80.60.020.

16 (ii) For a community solar project that has an alternating
17 current nameplate capacity greater than one hundred kilowatts but no
18 greater than one hundred ninety-nine kilowatts, compensation must be
19 determined at a rate set by the participating utility.

20 (b) A utility may authorize the administrator of a community
21 solar project to provide compensation for the generation of
22 electricity from a certified project to the project subscribers on
23 behalf of the utility. The administrator must provide the utility
24 with signed statements of the following:

25 (i) The production meter reading for the period for which
26 compensation is to be provided;

27 (ii) Each subscriber's share of the project;

28 (iii) The amount to be dispersed to each subscriber for the
29 period; and

30 (iv) The date and amount dispersed to each subscriber.

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

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

36 (b) The utility may terminate its voluntary participation in the
37 program by providing notice in writing to the Washington State
38 University extension energy program to cease accepting new
39 applications for precertification for community solar projects that
40 would be served by that utility. Such notice of termination of

1 participation is effective after fifteen days, at which point the
2 Washington State University extension energy program may not accept
3 new applications for precertification for community solar projects
4 that would be served by that utility.

5 (c) Upon receiving a utility's notice of termination of
6 participation in the incentive program, the Washington State
7 University extension energy program must report on its web site that
8 community solar project customers of that utility are no longer
9 eligible to receive new certifications under the program.

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

13 (7) (a) The Washington State University extension energy program
14 may issue certifications authorizing incentive payments under this
15 section in a total statewide amount not to exceed twenty million
16 dollars, and subject to the following biennial dollar limits:

17 (i) For fiscal year 2021, three hundred thousand dollars; and

18 (ii) For each biennium beginning on or after July 1, 2021, five
19 million dollars.

20 (b) For the first year of each full biennium for which funds are
21 available for incentive payments, the amount available to each
22 utility to pay low-income community solar incentive payments to
23 community solar projects certified under this section is proportional
24 to the amount of electricity provided to each utility's retail
25 electric customers against the total retail sales of electricity by
26 all electric utilities in the state, obtained from the most recent
27 year in which a full year's data for retail sales of electricity in
28 the state is available from the United States energy information
29 administration. For the second year of each full biennium, any
30 amounts not reserved for precertified community solar projects in the
31 first year will be made available on a first-come, first-served basis
32 to utilities that have not reached the public utility tax credit
33 limit established under section 3(2) of this act.

34 (8) (a) Prior to obtaining certification under this section, the
35 administrator of a community solar project must apply for
36 precertification against the funds available for incentive payments
37 under subsection (7) of this section in order to be guaranteed an
38 incentive payment under this section. The application for
39 precertification must include, at a minimum:

1 (i) A demonstration of how the project will deliver direct
2 benefits to low-income subscribers. A direct benefit can include
3 credit for the power generation for the community solar project or
4 from sales of renewable energy credits, a low-income specific
5 discount, or other mechanisms that lower the energy burden of a low-
6 income subscriber; and

7 (ii) Any other information the Washington State University
8 extension energy program deems necessary in determining eligibility
9 for precertification.

10 (b) The administrator of a community solar project must complete
11 an application for certification in accordance with the requirements
12 of subsection (9) of this section within less than two years of being
13 approved for precertification status. The administrator must submit a
14 project update to the Washington State University extension energy
15 program after one year in precertification status.

16 (9) To obtain certification for the one-time low-income community
17 solar incentive payment provided under this section, a project
18 administrator must submit to the Washington State University
19 extension energy program an application, including, at a minimum:

20 (a) A signed statement that the applicant has not previously
21 received a notice of eligibility from the department under RCW
22 82.16.120 or the Washington State University extension energy program
23 under RCW 82.16.165 entitling the applicant to receive annual
24 incentive payments for electricity generated by the community solar
25 project at the same meter location;

26 (b) A signed statement of the costs paid by the administrator
27 related to administering the project for qualifying subscribers;

28 (c) A signed statement of the total project costs, including the
29 proportional cost of the share of the community solar project that
30 provides direct benefits to qualifying subscribers;

31 (d) A signed statement of the amount of direct benefits that will
32 be provided to low-income subscribers, other qualifying subscribers,
33 and subscribers who are not qualifying subscribers. The statement
34 must describe the timing, method, and estimated energy burden
35 reduction associated with the direct benefits. The statement must
36 also include a comparison of the amount of upfront incentive payment
37 to the amount of direct benefit paid to low-income subscribers;

38 (e) Available system operation data, such as global positioning
39 system coordinates, tilt, estimated shading, and azimuth;

1 (f) Any other information the Washington State University
2 extension energy program deems necessary in determining eligibility
3 and incentive levels or administering the program;

4 (g)(i) Except as provided in (g)(ii) of this subsection (9), the
5 date that the community solar project received its final electrical
6 inspection from the applicable local jurisdiction, as well as a copy
7 of the permit or, if the permit is available online, the permit
8 number;

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

18 (h) Confirmation of the number of qualifying subscribers; and

19 (i) Any other information the Washington State University
20 extension energy program deems necessary in determining eligibility
21 and incentive levels or administering the program.

22 (10) No incentive payments may be authorized or accrued until the
23 final electrical inspection and executed interconnection agreement
24 are submitted to the Washington State University extension energy
25 program.

26 (11)(a) The Washington State University extension energy program
27 must review each project for which an application for certification
28 is submitted in accordance with subsection (8) of this section for
29 reasonable cost and financial structure, with a targeted cost of
30 three dollars per watt of installed system capacity that is
31 designated for a community solar project's qualifying subscribers.
32 The Washington State University extension energy program may approve
33 an application for a project that costs more or less than three
34 dollars per watt of installed system capacity based on a review of
35 the project, documents submitted by the project applicant, and
36 available data. Project cost evaluations must exclude costs
37 associated with energy storage systems. Applicants may petition the
38 Washington State University extension energy program to approve a
39 higher cost per watt for unusual circumstances, except that such
40 costs may not include costs associated with energy storage systems.

1 (b) The Washington State University extension energy program may
2 review the cost per watt target under (a) of this subsection prior to
3 each fiscal biennium and is authorized to determine a new cost per
4 watt target.

5 (12)(a) Within thirty days of receipt of an application for
6 certification, the Washington State University extension energy
7 program must notify the applicant and, except when a utility is the
8 applicant, the utility serving the site of the community solar
9 project, by mail or electronically, whether certification has been
10 granted. The certification notice must state the total dollar amount
11 of the low-income community solar incentive payment for which the
12 applicant is eligible under this section.

13 (b) Within sixty days of receipt of a notification under (a) of
14 this subsection, the utility serving the site of the community solar
15 project must remit the applicable one-time low-income community solar
16 incentive payment to the project administrator, who accepts the
17 payment on behalf of, and for the purpose of providing direct
18 benefits to, the project's qualifying subscribers.

19 (13)(a) Certification follows the community solar project if the
20 following conditions are met using procedures established by the
21 Washington State University extension energy program:

22 (i) The community solar project is transferred to a new owner who
23 notifies the Washington State University extension energy program of
24 the transfer; and

25 (ii) The new owner provides an executed interconnection agreement
26 with the utility serving the site of the community solar project.

27 (b) In the event that a qualifying subscriber terminates their
28 participation in a community solar project, the system certification
29 follows the project and participation must be transferred to a new
30 qualifying subscriber.

31 (14) Beginning January 1, 2021, the Washington State University
32 extension energy program must post on its web site and update at
33 least monthly a report, by utility, of:

34 (a) The number of certifications issued for community solar
35 projects; and

36 (b) An estimate of the amount of credit that has not yet been
37 allocated for low-income community solar incentive payments under
38 each utility's credit limit and that remains available for new
39 community solar project certifications in the state.

1 (15) Persons receiving incentive payments under this section must
2 keep and preserve, for a period of five years for the duration of the
3 consumer contract, suitable records as may be necessary to determine
4 the amount of incentive payments applied for and received.

5 (16) The nonpower attributes of the community solar project
6 belong to the individual subscribers, and must be kept, sold, or
7 transferred at a subscriber's discretion, unless a contract between
8 the subscriber and administrator clearly specifies that the
9 attributes will be transferred to the administrator.

10 (17) 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 (18) The Washington State University extension energy program
15 must collect a one-time fee for precertification applications
16 submitted under this section of five hundred dollars per applicant.
17 The Washington State University extension energy program must deposit
18 all revenue generated by this fee into the state general fund.

19 (19) The Washington State University extension energy program
20 may, through a public process, develop program requirements,
21 policies, and processes necessary for the administration or
22 implementation of this section.

23 (20) Applications, certifications, requests for incentive
24 payments under this section, and the information contained therein
25 are not deemed tax information under RCW 82.32.330 and are subject to
26 disclosure.

27 (21) No certification may be issued under this section by the
28 Washington State University extension energy program for a community
29 solar project after June 30, 2033.

30 (22) This section expires June 30, 2036.

31 **Sec. 8.** RCW 82.16.170 and 2017 3rd sp.s. c 36 s 7 are each
32 amended to read as follows:

33 (1) The purpose of community solar programs is to facilitate
34 broad, equitable community investment in and access to solar power.
35 Beginning July 1, 2017, a community solar administrator may organize
36 and administer a community solar project as provided in this section.

37 (2) ((A)) In order to receive certification for the incentive
38 payment provided under RCW 82.16.165(1) by June 30, 2021, a community
39 solar project must have a direct current nameplate capacity that is

1 no more than one thousand kilowatts and must have at least ten
2 participants or one participant for every ten kilowatts of direct
3 current nameplate capacity, whichever is greater. A community solar
4 project that has a direct current nameplate capacity greater than
5 five hundred kilowatts must be subject to a standard interconnection
6 agreement with the utility serving the situs of the community solar
7 project. Except for community solar projects authorized under
8 subsection ~~((9))~~ (10) of this section, each participant must be a
9 customer of the utility providing service at the situs of the
10 community solar project.

11 (3) In order to receive certification for the incentive payment
12 provided under section 7 of this act beginning July 1, 2020, a
13 community solar project must meet the following requirements:

14 (a) The administrator of the community solar project must be a
15 utility, nonprofit, or other local housing authority. The
16 administrator of the community solar project must apply for
17 precertification under section 7 of this act on or after July 1,
18 2020;

19 (b) The community solar project must have an alternating current
20 nameplate capacity that is greater than twelve kilowatts but no
21 greater than one hundred ninety-nine kilowatts, and must have at
22 least two subscribers or one low-income service provider subscriber;

23 (c) The administrator of the community solar project must provide
24 a verified list of qualifying subscribers;

25 (d) Verification that an individual household subscriber meets
26 the definition of low-income must be provided to the administrator by
27 an entity with authority to maintain the confidentiality of the
28 income status of the low-income subscriber. If the providing entity
29 incurs costs to verify a subscriber's income status, the
30 administrator must provide reimbursement of those costs;

31 (e) Except for community solar projects authorized under
32 subsection (10) of this section, each subscriber must be a customer
33 of the utility providing service at the site of the community solar
34 project;

35 (f) In the event that a low-income subscriber in a community
36 solar project certified under section 7 of this act moves from the
37 household premises of the subscriber's current subscription to
38 another, the subscriber may continue the subscription, provided that
39 the new household premises is served by the utility providing service
40 at the site of the community solar project. In the event that a

1 subscriber is no longer served by that utility or the subscriber
2 terminates participation in a community solar project certified under
3 section 7 of this act, the certification follows the system and
4 participation may be transferred by the administrator to a new
5 qualifying subscriber;

6 (g) The administrator must include in the application for
7 precertification a project prospectus that demonstrates how the
8 administrator intends to provide direct benefits to qualifying
9 subscribers for the duration of their subscription to the community
10 solar project; and

11 (h) The length of the subscription term for low-income
12 subscribers must be the same length as for other subscribers, if
13 applicable.

14 (4) The administrator of a community solar project must
15 administer the project in a transparent manner that allows for fair
16 and nondiscriminatory opportunity for participation by utility
17 customers.

18 ~~((4))~~ (5) The administrator of a community solar project may
19 establish a reasonable fee to cover costs incurred in organizing and
20 administering the community solar project. Project participants,
21 prior to making the commitment to participate in the project, must be
22 given clear and conspicuous notice of the portion of the incentive
23 payment that will be used for this purpose.

24 ~~((5))~~ (6) The administrator of a community solar project must
25 maintain and update annually through June 30, 2030, the following
26 information for each project it operates or administers:

27 (a) Ownership information;

28 (b) Contact information for technical management questions;

29 (c) Business address;

30 (d) Project design details, including project location, output
31 capacity, equipment list, and interconnection information; and

32 (e) Subscription information, including rates, fees, terms, and
33 conditions.

34 ~~((6))~~ (7) The administrator of a community solar project must
35 provide the information required in subsection ~~((5))~~ (6) of this
36 section to the Washington State University extension energy program
37 at the time it submits the applications allowed under RCW
38 82.16.165(1) and section 7 of this act.

39 ~~((7))~~ (8) The administrator of a community solar project must
40 provide each project participant with a disclosure form containing

1 all material terms and conditions of participation in the project,
2 including but not limited to the following:

3 (a) Plain language disclosure of the terms under which the
4 project participant's share of any incentive payment will be
5 calculated by the Washington State University extension energy
6 program (~~over the life of the contract~~);

7 (b) Contract provisions regulating the disposition or transfer of
8 the project participant's interest in the project, including any
9 potential costs associated with such a transfer;

10 (c) All recurring and nonrecurring charges;

11 (d) A description of the billing and payment procedures;

12 (e) A description of any compensation to be paid in the event of
13 project underperformance;

14 (f) Current production projections and a description of the
15 methodology used to develop the projections;

16 (g) Contact information for questions and complaints; and

17 (h) Any other terms and conditions of the services provided by
18 the administrator.

19 ~~((8))~~ (9) A utility may not adopt rates, terms, conditions, or
20 standards that unduly or unreasonably discriminate between utility-
21 administered community solar projects and those administered by
22 another entity.

23 ~~((9))~~ (10) A public utility district that is engaged in
24 distributing electricity to more than one retail electric customer in
25 the state and a joint operating agency organized under chapter 43.52
26 RCW on or before January 1, 2017, may enter into an agreement with
27 each other to construct and own a community solar project that is
28 located on property owned by a joint operating agency or on property
29 that receives electric service from a participating public utility
30 district. Each participant of a community solar project under this
31 subsection must be a customer of at least one of the public utility
32 districts that is a party to the agreement with a joint operating
33 agency to construct and own a community solar project.

34 ~~((10))~~ (11) The Washington utilities and transportation
35 commission must publish, without disclosing proprietary information,
36 a list of the following:

37 (a) Entities other than utilities, including affiliates or
38 subsidiaries of utilities, that organize and administer community
39 solar projects; and

1 (b) Community solar projects and related programs and services
2 offered by investor-owned utilities.

3 ~~((11))~~ (12) If a consumer-owned utility opts to provide a
4 community solar program or contracts with a nonutility administrator
5 to offer a community solar program, the governing body of the
6 consumer-owned utility must publish, without disclosing proprietary
7 information, a list of the nonutility administrators contracted by
8 the utility as part of its community solar program.

9 ~~((12))~~ (13) A utility administrator of a community solar
10 project applying for and receiving precertification and certification
11 on or after July 1, 2020, that meets the requirements of section 7 of
12 this act and subsection (3) of this section may provide energy
13 assistance and investments to reduce the energy burden for low-income
14 households and low-income service providers by offsetting the
15 proportional administration and subscription costs for those
16 entities.

17 (14) Except for parties engaged in actions and transactions
18 regulated under laws administered by other authorities and exempted
19 under RCW 19.86.170, a violation of this section constitutes an
20 unfair or deceptive act in trade or commerce in violation of chapter
21 19.86 RCW, the consumer protection act. Acts in violation of chapter
22 36, Laws of 2017 3rd sp. sess. are not reasonable in relation to the
23 development and preservation of business, and constitute matters
24 vitally affecting the public interest for the purpose of applying the
25 consumer protection act, chapter 19.86 RCW.

26 ~~((13))~~ (15) Nothing in this section may be construed as
27 intending to preclude persons from investing in or possessing an
28 ownership interest in a community solar project, or from applying for
29 and receiving federal investment tax credits.

30 (16) This section expires June 30, 2036.

31 **Sec. 9.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to
32 read as follows:

33 (1) The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 ~~((1))~~ (a) "Administrator" means an owner and assignee of a
36 community solar project as defined in ~~((subsection—(2)(a)(i)))~~
37 (b)(i)(A) of this ~~((section))~~ subsection that is responsible for
38 applying for the investment cost recovery incentive on behalf of the
39 other owners and performing such administrative tasks on behalf of

1 the other owners as may be necessary, such as receiving investment
2 cost recovery incentive payments, and allocating and paying
3 appropriate amounts of such payments to the other owners.

4 ~~((2)(a))~~ (b)(i) "Community solar project" means:

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

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

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

24 ~~((b))~~ (ii) For the purposes of "community solar project" as
25 defined in ~~((a))~~ (b)(i) of this subsection:

26 ~~((i))~~ (A) "Company" means an entity that is:

27 ~~((A))~~ (I) A limited liability company; ~~((II)—A))~~ a cooperative
28 formed under chapter 23.86 RCW; or ~~((III)—A))~~ a mutual corporation
29 or association formed under chapter 24.06 RCW; and

30 ~~((B))~~ (II) Not a "utility" as defined in this subsection
31 ~~((2)(b))~~ (1)(b)(ii); and

32 ~~((iii))~~ (B) "Nonprofit organization" means an organization
33 exempt from taxation under 26 U.S.C. Sec. 501(c)(3) of the federal
34 internal revenue code of 1986, as amended, as of January 1, 2009; and

35 ~~((iii))~~ (C) "Utility" means a light and power business, an
36 electric cooperative, or a mutual corporation that provides
37 electricity service.

38 ~~((3))~~ (c) "Customer-generated electricity" means a community
39 solar project or the alternating current electricity that is
40 generated from a renewable energy system located in Washington and

1 installed on an individual's, businesses', or local government's real
2 property that is also provided electricity generated by a light and
3 power business. Except for community solar projects, a system located
4 on a leasehold interest does not qualify under this definition.
5 Except for utility-owned community solar projects, "customer-
6 generated electricity" does not include electricity generated by a
7 light and power business with greater than one thousand megawatt-
8 hours of annual sales or a gas distribution business.

9 ~~((4))~~ (d) "Economic development kilowatt-hour" means the actual
10 kilowatt-hour measurement of customer-generated electricity
11 multiplied by the appropriate economic development factor.

12 ~~((5))~~ (e) "Local governmental entity" means any unit of local
13 government of this state including, but not limited to, counties,
14 cities, towns, municipal corporations, quasi-municipal corporations,
15 special purpose districts, and school districts.

16 ~~((6))~~ (f) "Photovoltaic cell" means a device that converts
17 light directly into electricity without moving parts.

18 ~~((7))~~ (g) "Renewable energy system" means a solar energy
19 system, an anaerobic digester as defined in RCW 82.08.900, or a wind
20 generator used for producing electricity.

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

24 ~~((9))~~ (i) "Solar inverter" means the device used to convert
25 direct current to alternating current in a solar energy system.

26 ~~((10))~~ (j) "Solar module" means the smallest nondivisible self-
27 contained physical structure housing interconnected photovoltaic
28 cells and providing a single direct current electrical output.

29 ~~((11))~~ (k) "Stirling converter" means a device that produces
30 electricity by converting heat from a solar source utilizing a
31 stirling engine.

32 (2) This section expires June 30, 2031.

33 **Sec. 10.** RCW 82.16.120 and 2017 3rd sp.s. c 36 s 3 are each
34 amended to read as follows:

35 (1)(a) Any individual, business, local governmental entity, not
36 in the light and power business or in the gas distribution business,
37 or a participant in a community solar project may apply to the light
38 and power business serving the situs of the system, each fiscal year
39 beginning on July 1, 2005, and ending June 30, 2017, for an

1 investment cost recovery incentive for each kilowatt-hour from a
2 customer-generated electricity renewable energy system.

3 (b) In the case of a community solar project as defined in RCW
4 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), the administrator must apply for
5 the investment cost recovery incentive on behalf of each of the other
6 owners.

7 (c) In the case of a community solar project as defined in RCW
8 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the company owning the
9 community solar project must apply for the investment cost recovery
10 incentive on behalf of each member of the company.

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

18 (b) The department may not accept certifications submitted to the
19 department under (a) of this subsection after September 30, 2017.

20 (c) The certification must include:

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

23 (A) If the applicant is an administrator of a community solar
24 project as defined in RCW 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), the
25 certification must also include the name and address of each of the
26 owners of the community solar project.

27 (B) If the applicant is a company that owns a community solar
28 project as defined in RCW 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the
29 certification must also include the name and address of each member
30 of the company;

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

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

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

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

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

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

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

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

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

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

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

18 (3) (a) By August 1st of each year through August 1, 2017, the
19 application for the incentive must be made to the light and power
20 business serving the situs of the system by certification in a form
21 and manner prescribed by the department that includes, but is not
22 limited to, the following information:

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

25 (A) If the applicant is an administrator of a community solar
26 project as defined in RCW 82.16.110(~~((2)(a)(i))~~) (1)(b)(i)(A), the
27 application must also include the name and address of each of the
28 owners of the community solar project.

29 (B) If the applicant is a company that owns a community solar
30 project as defined in RCW 82.16.110(~~((2)(a)(iii))~~) (1)(b)(i)(C), the
31 application must also include the name and address of each member of
32 the company;

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

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

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

39 (b) Within sixty days of receipt of the incentive certification
40 the light and power business serving the situs of the system must

1 notify the applicant in writing whether the incentive payment will be
2 authorized or denied. The business may consult with the climate and
3 rural energy development center to determine eligibility for the
4 incentive payment. Incentive certifications and the information
5 contained therein are not confidential tax information under RCW
6 82.32.330 and are subject to disclosure.

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

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

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

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

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

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

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

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

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

13 (c) Where the applicant is an administrator of a community solar
14 project as defined in RCW 82.16.110(~~((2)-(a)-(i))~~) (1)(b)(i)(A), each
15 owner is eligible for an incentive but only in proportion to the
16 ownership share of the project, up to five thousand dollars per year.

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

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

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

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

37 (8) No incentive may be paid under this section for kilowatt-
38 hours generated before July 1, 2005, or after June 30, 2017, except
39 as provided in subsections (10) through (12) of this section.

1 (9) Beginning October 1, 2017, program management, technical
2 review, and tracking responsibilities of the department under this
3 section are transferred to the Washington State University extension
4 energy program. At the earliest date practicable and no later than
5 September 30, 2017, the department must transfer all records
6 necessary for the administration of the remaining incentive payments
7 due under this section to the Washington State University extension
8 energy program.

9 (10) Participants in the renewable energy investment cost
10 recovery program under this section will continue to receive payments
11 for electricity produced through June 30, 2020, at the same rates
12 their utility paid to participants for electricity produced between
13 July 1, 2015, and June 30, 2016.

14 (11) In order to continue to receive the incentive payment
15 allowed under subsection (4) of this section, a person or community
16 solar project administrator who has, by September 30, 2017, submitted
17 a complete certification to the department under subsection (2) of
18 this section must apply to the Washington State University extension
19 energy program by April 30, 2018, for a certification authorizing the
20 utility serving the situs of the renewable energy system to annually
21 remit the incentive payment allowed under subsection (4) of this
22 section for each kilowatt-hour generated by the renewable energy
23 system through June 30, 2020.

24 (12)(a) The Washington State University extension energy program
25 must establish an application process and form by which to collect
26 the system operation data described in RCW 82.16.165(7)(a)(iii) from
27 each person or community solar project administrator applying for a
28 certification under subsection (11) of this section. The Washington
29 State University extension energy program must notify any applicant
30 that providing this data is a condition of certification and that any
31 certification issued pursuant to this section is void as of June 30,
32 2018, if the applicant has failed to provide the data by that date.

33 (b) Beginning July 1, 2018, the Washington State University
34 extension energy program must, in a form and manner that is
35 consistent with the roles and processes established under RCW
36 82.16.165 (19) and (20), calculate for the year and provide to the
37 utility the amount of the incentive payment due to each participant
38 under subsection (11) of this section.

39 (13) This section expires June 30, 2031.

1 **Sec. 11.** RCW 82.16.150 and 2010 c 202 s 5 are each amended to
2 read as follows:

3 (1) Owners of a community solar project as defined in RCW
4 82.16.110(~~((2)(a)(i) and (iii))~~) (1) (b) (i) (A) and (C) must agree to
5 hold harmless the light and power business serving the situs of the
6 system, including any employee, for the good faith reliance on the
7 information contained in an application or certification submitted by
8 an administrator or company. In addition, the light and power
9 business and any employee is immune from civil liability for the good
10 faith reliance on any misstatement that may be made in such
11 application or certification. Should a light and power business or
12 employee prevail upon the defense provided in this section, it is
13 entitled to recover expenses and reasonable attorneys' fees incurred
14 in establishing the defense.

15 (2) This section expires June 30, 2031.

16 **Sec. 12.** RCW 82.16.155 and 2017 3rd sp.s. c 36 s 2 are each
17 amended to read as follows:

18 (1) This section is the tax preference performance statement for
19 the tax preference and incentives created under (~~(RCW 82.16.130 and)~~)
20 sections 4 and 6, chapter 36, Laws of 2017 3rd sp. sess. This
21 performance statement is only intended to be used for subsequent
22 evaluation of the tax preference and incentives. It is not intended
23 to create a private right of action by any party or be used to
24 determine eligibility for preferential tax treatment.

25 (2) The legislature categorizes the tax preference created under
26 (~~(RCW 82.16.130)~~) section 4, chapter 36, Laws of 2017 3rd sp. sess.
27 and incentive payments authorized in section 6, chapter 36, Laws of
28 2017 3rd sp. sess. as intended to:

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

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

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

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

36 (b) Promote economic development through increasing and improving
37 investment in, development of, and use of clean energy technology in
38 Washington; and

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

3 (4) It is the legislature's intent to provide the incentives in
4 sections 4 and 6, chapter 36, Laws of 2017 3rd sp. sess. (~~and RCW~~
5 ~~82.16.130~~) in order to ensure the sustainable job growth and
6 vitality of the state's renewable energy sector. The purpose of the
7 incentive is to reduce the costs associated with installing and
8 operating solar energy systems by persons or entities receiving the
9 incentive.

10 (5) As part of its 2021 tax preference reviews, the joint
11 legislative audit and review committee must review the tax
12 preferences and incentives in sections 4 and 6, chapter 36, Laws of
13 2017 3rd sp. sess. (~~and RCW 82.16.130.~~) The legislature intends for
14 the legislative auditor to determine that the incentive has achieved
15 its desired outcomes if the following objectives are achieved:

16 (a) Installation of one hundred fifteen megawatts of solar
17 photovoltaic capacity by participants in the incentive program
18 between July 1, 2017, and June 30, 2021; and

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

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

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

27 (6) In order to obtain the data necessary to perform the review,
28 the joint legislative audit and review committee may refer to data
29 collected by the Washington State University extension energy program
30 and may obtain employment data from the employment security
31 department.

32 (7) The Washington State University extension energy program must
33 collect, through the application process, data from persons claiming
34 the tax credit under (~~RCW 82.16.130~~) section 4, chapter 36, Laws of
35 2017 3rd sp. sess. and persons receiving the incentive payments
36 created in (~~RCW 82.16.165~~) section 6, chapter 36, Laws of 2017 3rd
37 sp. sess., as necessary, and may collect data from other interested
38 persons as necessary to report on the performance of chapter 36, Laws
39 of 2017 3rd sp. sess.

1 (8) All recipients of tax credits or incentive payments awarded
2 under this chapter must provide data necessary to evaluate the tax
3 preference performance objectives in this section as requested by the
4 Washington State University extension energy program or the joint
5 legislative audit and review committee. Failure to comply may result
6 in the loss of a tax credit award or incentive payment in the
7 following year.

8 (9) This section expires June 30, 2031.

9 NEW SECTION. **Sec. 13.** The provisions of RCW 82.32.805 and
10 82.32.808 do not apply to this act.

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

15 Correct the title.

EFFECT: Amends the legislative intent statement. Extends the application deadline for the Community Solar Expansion Program through June 30, 2031, rather than June 20, 2026. Extends the precertification period for community solar projects and shared commercial solar projects under the current-law Production Incentive Program from one year to two years. Changes references of "energy burden reduction incentive payment" to "low-income community solar incentive payment." Amends the definition of qualifying subscriber with regards to tribal agency subscribers and public agency subscribers. Requires a utility participating in the Community Solar Expansion Program to provide the administrator of a certified community solar program with compensation for the generation of electricity from the certified project. Provides a per-utility limit on the amount of funds available to pay low-income community solar incentive payments for the first year of each full biennium. Requires the Washington State University extension energy program to review each community solar project for which an application for certification is submitted for reasonable cost and financial structure. Establishes a target cost of three dollars per watt of installed system capacity that is designated for a community solar project's qualifying subscribers. Authorizes the Washington State University extension energy program to review the cost per watt target prior to each fiscal biennium and determine a new cost per watt target. Removes references to the net metering statute.

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