HOUSE BILL REPORT
HB 1871

As Reported by House Committee On:
Environment & Energy

Title: An act relating to incentivizing grid-connected residential battery energy storage systems.

Brief Description: Incentivizing grid-connected residential battery energy storage systems.

Sponsors: Representatives Hunt, Klicker, Doglio, Parshley, Ramel, Zahn and Duerr.

Brief History:
Committee Activity:
Environment & Energy: 2/10/25, 2/18/25 [DPS].

Brief Summary of Substitute Bill

- Requires electric utilities with more than 100,000 electric customers to have a residential battery energy storage program (program) that includes providing battery incentives to customers and establishing either a time-of-use rate or a virtual power plant, and authorizes other electric utilities to participate in the program.
- Directs the Washington State University Extension Energy Program to administer the program, which extends for 10 years after July 1, 2026.
- Allows utilities providing battery incentives under the program to receive a tax credit equal to the incentives provided, associated expenses, and upgrades.
- Requires the Department of Commerce to produce nonbinding recommendations for electric utilities to develop virtual power plants.
- Requires the Joint Legislative Audit and Review Committee to review the program's tax preferences as part of its 2030 reviews.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Doglio, Chair; Hunt, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Barnard, Berry, Duerr, Fey, Fitzgibbon, Kloba, Mena, Mendoza, Ramel, Stearns, Street, Stuebe, Wylie and Ybarra.

Minority Report: Without recommendation. Signed by 3 members: Representatives Abbarno, Abell and Ley.

Staff: Megan McPhaden (786-7114).

Background:

Light and Power Businesses.
Light and power businesses operate plants or systems for the generation, production, or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.

Public Utility Tax.
The gross income derived from the operation of publicly and privately owned utilities is subject to the public utility tax (PUT), unless otherwise exempt. The tax is imposed in lieu of the business and occupation (B&O) tax and is applied only on sales to consumers. Other income of the utility, such as the retail sale of tangible personal property, is subject to the B&O tax. There are six different PUT rates, depending on the specific utility activity. The rate on the generation or distribution of electrical power is 3.8734 percent.

A taxpayer who engages in one or more businesses subject to the PUT is fully exempt from the tax if their total gross income is $2,000 or less per month. Any taxpayer that has a total gross income greater than $2,000 per month does not receive an exemption or deduction under this provision.

A business does not have to file an excise tax return for the PUT if the business does not owe other taxes or fees to the Department of Revenue (DOR) and has annual gross proceeds of less than $24,000.

Washington State University Energy Extension Program.
The Washington State University Energy Extension Program (WSU Energy Program) has administered energy programs and provides oversight over incentive payments. These programs include providing PUT credits, such as through the Community Solar Expansion Program, the Annual Production Incentive Certification, and the Renewable Energy System Cost Recovery Program.

Tax Preference Performance Statement.
Tax preferences confer reduced tax liability upon a designated class of taxpayers. These include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits.

There are over 700 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Substitute Bill:

New Battery Incentive Program.
The WSU Energy Program must administer a new residential battery incentive program (program) for qualified light and power businesses (electric utilities). Electric utilities with more than 100,000 retail electric customers must participate, while other electric utilities may participate.

Under the program, an electric utility must provide one-time battery incentives to qualified customers. Qualified customers are residential customers, nonprofit organizations, public entities, tribal governments, academic institutions, and multifamily housing tax equity investor partnerships with a controlling partner that is a nonprofit organization, public entity, tribal government, or academic institution. Incentives are for the installed battery storage capacity from a residential battery energy storage system, which is not an industrial-scale battery energy storage system, and may be for up to $765 per kilowatt-hour (kWh), capped at 18 kWh, for low- and moderate-income customers; and $450 per kWh, capped at 18 kWh, for all other customers.

Additionally, an electric utility must have a plan for using the batteries either by allowing customers with batteries to be charged time-of-use rates for electricity; or incorporating the batteries into a utility-operated virtual power plant that financially encourages customers to manage their electricity use to their benefit so the utility can effectively manage the batteries collectively to benefit utility grid operations.

A time-of-use rate means an electricity billing structure where the price of electricity varies based on the time of day it is used to encourage consumers to shift their energy use to times of off-peak demand.

A virtual power plant is an aggregation of connected distributed energy resources that can balance electrical loads and are coordinated to work together to provide utility grid services like a traditional power plant.

Electric utilities must apply to the WSU Energy Program to establish a program. The WSU Energy Program must evaluate an application based on whether it meets certain requirements. If the WSU Energy Program approves a program application, the electric utility may start the program. The WSU Energy Program must audit the electric utility's

program at least every two years.

Program requirements include:
- At least 40 percent of the program must benefit low- and moderate-income households, low-income service providers, housing authorities, or tribal governments.
- The application for customers to apply for a battery incentive must require income verification for low- and moderate-income customers.
- Leases to customers are not allowed.
- The electric utility must use the program to lower the customer's annual electric utility expenses.
- All expenses and upgrades proposed for program implementation are documented.
- Electric utilities may not sell or aggregate data from customers in the program for any purpose beyond the direct operation of the program.

An electric utility may establish residential installer partners and equipment specifications.

Qualified customers may apply to their electric utility for a one-time battery incentive payment between July 1, 2026, and June 30, 2036. Customers must be connected to the electric utility's time-of-use rate program or virtual power plant to receive an incentive payment. This application must be in a form and manner prescribed by the WSU Energy Program and include certain information: including the name and address of the applicant, and the kilowatt (kW) capacity of the residential battery energy storage system. The electric utility must notify the applicant within 60 days of receipt of the incentive certification whether the incentive payment will be authorized or denied.

Before applying to the electric utility, qualified customers must submit a certification to the WSU Energy Program that includes certain information like what is required in the application to the electric utility. After receiving the application, the WSU Energy Program is to determine the customer's eligibility, and then must notify the customer within 30 days as to whether their system qualifies.

Customers receiving incentive payments must keep records of incentives applied for and received for five years. If it appears that an incentive was paid in excess of the correct amount, the electric utility may assess against the customer the excess incentive amount. The environmental attributes of the renewable energy system belong to the applicant.

The Department of Commerce (Commerce) must produce nonbinding recommendations for electric utilities to help design virtual power plants for the program, and make the recommendations public on Commerce's website by December 1, 2025.

Electric Utility Tax Credit.
An electric utility is allowed a PUT credit equal to:
- the battery incentive payments; and
- expenses and upgrades associated with their program, which must not be more than

20 percent of the total tax credit for any fiscal year, and include advanced metering infrastructure and subscription fees paid by the electric utility to operators of a virtual power plant.

Expenditures not used to earn a credit in one year may be used in subsequent years. Tax credits may be earned from July 1, 2026, to June 30, 2036, and may not be claimed after June 30, 2038. Electric utilities must have incentive payments, and expenses and upgrades in any given year to claim a credit and the incentives must be at least equal to the expenditures for expenses and upgrades.

Tax Preference Performance Statement.
It is the Legislature's objective to induce participating utilities to make incentive payments to utility customers who invest in battery energy storage on the customer-side of the meter, reduce the costs associated with installing and operating these storage systems, and create and retain jobs in the clean energy sector.

The Joint Legislative Audit and Review Committee (JLARC) must review this tax preference as part of its 2030 tax preference reviews. The Legislature intends for JLARC to determine that the incentive achieved its desired outcomes if:

- 50 megawatt-hours of battery energy storage are installed under the program; and
- battery-energy-storage-related employment grows from 2025 levels, as evidenced by an increased per capita rate of related jobs in the state and an improved national ranking for battery-energy-storage-related employment.

The WSU Energy Program must collect information from qualified customers and electric utilities under the program to be able to report on the number of participants, size of systems installed, dollars spent on incentives, and energy storage program load flexibility and demand response events. Recipients of tax credits or incentive payments must provide information as requested by the WSU Energy Program or JLARC to evaluate the tax preference performance. Failure to comply may result in the loss of a tax credit or incentive payment in the following fiscal year and the WSU Energy Program or JLARC must notify the DOR by June 30 of any year if a tax credit is suspended for such failure to comply.

Substitute Bill Compared to Original Bill:

As compared to the original bill, the substitute bill:

- modifies the definition of a residential battery energy storage system as it applies to the battery incentive program to serve only residential customers and to add that it supports utility demand management;
- modifies the definition of time-of-use rate to mean that such a rate is intended to encourage customers to shift their energy use to times of off-peak demand, rather than to less expensive periods;
- specifies that customers who own batteries and who may also be customer-generators of electricity, rather than customers who own batteries or other customer self-

generation, may be allowed to use time-of-use rates under a utility's battery incentive program;
- removes the date by which utilities must provide time-of-use rates for customers, if the utility chooses to provide time-of-use rates as part of their battery incentive program;
- removes requirements for the DOR to be involved in the administration of the battery incentive program, including for reviewing applications and establishing eligibility, except for the provisions related to issuing the public utility tax credit;
- removes the requirement for a customer applying for a battery incentive to provide their tax registration number;
- removes the allowance for a utility to assess interest on an incentive payment made in excess of the correct amount to a customer;
- removes the requirement that the public utility tax credit may not exceed 1.5 percent of the utility's taxable Washington power sales generated in 2022 for battery incentive payments;
- requires a utility to have both incentive payments and expenses, and upgrades in any given year to claim a credit and the incentives must be at least equal to the expenditures for expenses and upgrades; and
- requires the WSU Energy Program or JLARC to notify the DOR if a utility's tax credit is suspended due to the utility not following the requirement to provide information for JLARC to assess the tax preference performance.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 19, 2025.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The recent bomb cyclone is a good reminder of the value of energy storage. Residential energy storage systems can help respond to peak electrical loads and outages, and can benefit everyone across the state because of the benefits to the grid. They reduce overall grid costs, including transmission buildout needs. The initial cost of these systems is a barrier. Similar tax credit programs have been very successful and this builds on that success. The language needs some work. This will help reach clean energy goals. There are a dozen companies doing this now and there are new and better products that are more recyclable. This would support renewable integration and ensure that excess wind and solar generation isn't wasted.

(Opposed) None.

(Other) There are concerns with implementation, especially regarding the time-of-use rates and the administration of incentive payments. There are concerns about time-of-use rates prior to Utilities and Transportation Commission approval. The bill needs work. There should be an offramp if a utility cannot meet the 40 percent low-income participation target. There should be language about emergency preparedness and about liability, for example, related to fires in homes. Customers should be compensated for all of the energy they produce.

Persons Testifying: (In support) Representative Victoria Hunt, prime sponsor; Gavin Tenold, Northwest Renewables; Eric Blatz, Western Solar; Jeremy Smithson, Puget Sound Solar; and Jon Lange, Sunergy Systems.

(Opposed) None.

(Other) Maggie Douglas, Puget Sound Energy; Josie Cummings, Avista; and Mary Lou Pauly, Mayor, City of Issaquah.

Persons Signed In To Testify But Not Testifying: None.