
SENATE BILL 5027

State of Washington

65th Legislature

2017 Regular Session

By Senators McCoy and Rolfes

1 AN ACT Relating to distributed generation; amending RCW
2 82.16.120, 82.16.130, 82.08.962, 82.08.963, 82.12.962, and 82.12.963;
3 adding new sections to chapter 82.16 RCW; adding a new section to
4 chapter 70.95N RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that distributed
7 generation, including renewable energy systems interconnected to the
8 grid on utility customers' premises, is an important part of a state
9 energy strategy to increase energy independence, promote economic
10 development, and attain environmental benefits in the form of reduced
11 air pollutant emissions. The legislature intends to increase the
12 effectiveness of the existing renewable energy investment cost
13 recovery program by reducing the maximum incentive rate provided for
14 each kilowatt-hour of electricity generated by a renewable energy
15 system while broadening the opportunity to access the incentives by
16 creating opportunities for broader participation by low-income
17 individuals and others who may not own the premises where a renewable
18 energy system may be installed. The legislature intends to provide an
19 incentive sufficient to promote installation of systems through 2020,
20 at which point the legislature expects that the state's solar

1 industry will be capable of sustained growth and vitality without the
2 cost recovery incentive.

3 **Sec. 2.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to
4 read as follows:

5 (1)(a) Any individual, business, local governmental entity, not
6 in the light and power business or in the gas distribution business,
7 or a participant in a community solar project may apply to the light
8 and power business serving the situs of the system, each fiscal year
9 beginning on July 1, 2005, and ending June 30, 2020, for an
10 investment cost recovery incentive for each kilowatt-hour from a
11 customer-generated electricity renewable energy system.

12 (b) In the case of a community solar project as defined in RCW
13 82.16.110(2)(a)(i), the administrator must apply for the investment
14 cost recovery incentive on behalf of each of the other owners.

15 (c) In the case of a community solar project as defined in RCW
16 82.16.110(2)(a)(iii), the company owning the community solar project
17 must apply for the investment cost recovery incentive on behalf of
18 each member of the company.

19 (2)(a) Before submitting for the first time the application for
20 the incentive allowed under subsection (4) of this section, the
21 applicant must submit to the department of revenue and to the climate
22 and rural energy development center at the Washington State
23 University, established under RCW 28B.30.642, a certification in a
24 form and manner prescribed by the department that includes, but is
25 not limited to, the ~~((following))~~ information~~((+))~~ described in (c)
26 of this subsection.

27 (b) No person may submit for the first time the application for
28 the incentive allowed under subsection (4) of this section after June
29 30, 2017.

30 (c)(i) The name and address of the applicant and location of the
31 renewable energy system.

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

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

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

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

4 (A) Any solar inverters and solar modules manufactured in
5 Washington state;

6 (B) A wind generator powered by blades manufactured in Washington
7 state;

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

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

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

11 (F) Solar or wind equipment manufactured outside of Washington
12 state;

13 (iv) That the electricity can be transformed or transmitted for
14 entry into or operation in parallel with electricity transmission and
15 distribution systems; and

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

18 ~~((b))~~ (d) Within thirty days of receipt of the certification
19 the department of revenue must notify the applicant by mail, or
20 electronically as provided in RCW 82.32.135, whether the renewable
21 energy system qualifies for an incentive under this section. The
22 department may consult with the climate and rural energy development
23 center to determine eligibility for the incentive. System
24 certifications and the information contained therein are not
25 confidential tax information under RCW 82.32.330 and are subject to
26 disclosure ~~((under RCW 82.32.330(3)(1)))~~.

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

32 (i) The name and address of the applicant and location of the
33 renewable energy system.

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

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

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

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

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

7 (b) Within sixty days of receipt of the incentive certification
8 the light and power business serving the situs of the system must
9 notify the applicant in writing whether the incentive payment will be
10 authorized or denied. The business may consult with the climate and
11 rural energy development center to determine eligibility for the
12 incentive payment. Incentive certifications and the information
13 contained therein are not confidential tax information under RCW
14 82.32.330 and are subject to disclosure ((~~under~~—RCW
15 ~~82.32.330(3)(1)~~)).

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

30 (ii) If it appears that the amount of incentive paid is less than
31 the correct amount of incentive payable the business may authorize
32 additional payment.

33 (4) Except for community solar projects, the investment cost
34 recovery incentive may be paid fifteen cents per economic development
35 kilowatt-hour unless requests exceed the amount authorized for credit
36 to the participating light and power business. For community solar
37 projects, the investment cost recovery incentive may be paid thirty
38 cents per economic development kilowatt-hour unless requests exceed
39 the amount authorized for credit to the participating light and power
40 business. For the purposes of this section, the rate paid for the

1 investment cost recovery incentive may be multiplied by the following
2 factors:

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

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

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

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

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

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

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

25 (d) Where the applicant is a company owning a community solar
26 project that has applied for an investment cost recovery incentive on
27 behalf of its members, each member of the company is eligible for an
28 incentive that would otherwise belong to the company but only in
29 proportion to each ownership share of the company, up to five
30 thousand dollars per year. The company itself is not eligible for
31 incentives under this section.

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

36 (6) If requests for the investment cost recovery incentive under
37 this section exceed the amount of funds available for credit to the
38 participating light and power business, the light and power business
39 must reduce the incentive payments ((~~must be reduced~~))
40 proportionately.

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

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

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

12 (10) Beginning July 1, 2017, program management, technical
13 review, and tracking responsibilities of the department under this
14 section are transferred to the Washington State University extension
15 energy program. At the earliest date practicable, the department must
16 transfer all records necessary for the administration of the
17 remaining incentive payments due under this section to the Washington
18 State University extension energy program.

19 **Sec. 3.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to
20 read as follows:

21 (1) A light and power business (~~shall~~) must be allowed a credit
22 against taxes due under this chapter in an amount equal to
23 (~~investment cost recovery~~) incentive payments made in any fiscal
24 year under RCW 82.16.120 and section 5 of this act.

25 (2) The credits (~~shall~~) must be taken in a form and manner as
26 required by the department. The credit under this section for the
27 fiscal year may not exceed (~~one-half~~) one percent of the
28 businesses' taxable power sales due under RCW 82.16.020(1)(b) or
29 (~~one~~) two hundred fifty thousand dollars, whichever is greater.
30 (~~Incentive payments to participants in a utility-owned community~~
31 ~~solar project as defined in RCW 82.16.110(2)(a)(ii) may only account~~
32 ~~for up to twenty five percent of the total allowable credit.~~
33 ~~Incentive payments to participants in a company-owned community solar~~
34 ~~project as defined in RCW 82.16.110(2)(a)(iii) may only account for~~
35 ~~up to five percent of the total allowable credit.))~~

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

1 ~~((2))~~ (4) For any business that has claimed credit for amounts
2 that exceed the correct amount of the incentive payable under RCW
3 82.16.120 or, for payments made after July 1, 2017, that exceed the
4 amount reported to the utility as payable by the Washington State
5 University extension energy program as provided under section 5(17)
6 of this act, the amount of tax against which credit was claimed for
7 the excess payments ~~((shall be))~~ is immediately due and payable. The
8 department ~~((shall))~~ must assess interest but not penalties on the
9 taxes against which the credit was claimed. Interest ~~((shall))~~ must
10 be assessed at the rate provided for delinquent excise taxes under
11 chapter 82.32 RCW, retroactively to the date the credit was claimed,
12 and ~~((shall))~~ accrues until the taxes against which the credit was
13 claimed are repaid.

14 ~~((3))~~ (5) The amount of credit taken under this section is not
15 confidential taxpayer information under RCW 82.32.330 and is subject
16 to disclosure.

17 (6) The right to earn tax credits under this section expires June
18 30, ~~((2020))~~ 2030. Credits may not be claimed after June 30, ~~((2021))~~
19 2031.

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

22 The definitions in this section apply throughout this section and
23 section 5 of this act unless the context clearly requires otherwise.

24 (1) "Certification" means the authorization issued by the
25 Washington State University energy program establishing a person's
26 eligibility to receive annual incentive payments from the person's
27 utility for a term of ten years.

28 (2) "Commercial-scale system" means a renewable energy system
29 with nameplate capacity greater than ten kilowatts.

30 (3) "Community solar project" means a solar energy system that
31 has a direct current nameplate generating capacity that is no larger
32 than five hundred kilowatts and meets the eligibility requirements in
33 section 6 of this act.

34 (4) "Consumer-owned utility" has the same meaning as in RCW
35 19.280.020.

36 (5) "Customer-owner" means the owner of a residential-scale or
37 commercial-scale renewable energy system, where such owner is not a
38 utility and such owner either owns the premises on which the
39 renewable energy system is installed, possesses a leasehold interest

1 in tribal land on which the renewable energy system is installed, or
2 occupies the premises on which the renewable energy system is
3 installed.

4 (6) "Person" means any person or legal entity.

5 (7) "Renewable energy system" means a solar energy system, an
6 anaerobic digester as defined in RCW 82.08.900, or a wind generator
7 used for producing electricity.

8 (8) "Residential-scale system" means a renewable energy system
9 with nameplate capacity of ten kilowatts or less.

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

12 (10) "Washington State University energy program" means the
13 Washington State University extension energy program.

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

16 (1) Beginning July 1, 2017, the following may apply to the
17 Washington State University extension energy program to receive a
18 certification authorizing the utility serving the situs of a
19 renewable energy system in the state of Washington to remit an annual
20 production incentive for each kilowatt-hour of alternating current
21 electricity generated by the renewable energy system:

22 (a) The customer-owner of a residential-scale or commercial-scale
23 renewable energy system;

24 (b) The utility, in the case of a utility-owned renewable energy
25 system; or

26 (c) The nonprofit organization or utility that administers a
27 community solar project that meets the eligibility requirements
28 outlined in section 7 of this act, which must apply on behalf of each
29 of the project participants.

30 (2) No certification may be issued under this section for:

31 (a) A renewable energy system that was certified under RCW
32 82.16.120; or

33 (b) A renewable energy system served by a utility who has elected
34 not to participate in the incentive program, as provided in
35 subsection (3) of this section.

36 (3) A utility's participation in the incentive program provided
37 in this section is voluntary. A utility electing to participate in
38 the incentive program must notify the Washington State University

1 energy program of such election in writing by December 1st preceding
2 the calendar year in which the utility will participate.

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

8 (a) A utility's notice of termination of participation is
9 effective after fifteen days, at which point the Washington State
10 University energy program may not accept new applications for
11 certification from renewable energy systems that would be served by
12 that utility.

13 (b) Upon receiving a utility's notice of termination of
14 participation in the incentive program, the Washington State
15 University energy program must report on its web site that renewable
16 energy systems that would be served by that utility are no longer
17 eligible to receive new certification for a renewable energy system.

18 (c) A utility's termination of participation does not affect the
19 utility's obligation to continue to make annual incentive payments to
20 systems that have already been certified.

21 (d) The Washington State University energy program must continue
22 to process and issue certifications for renewable energy systems that
23 were received by the Washington State University energy program
24 before the effective date of the notice of termination.

25 (e) A utility that has terminated participation in the program
26 may resume participation upon filing notice with the Washington State
27 University energy program.

28 (5) The Washington State University energy program may only
29 certify a renewable energy system that meets the following
30 eligibility criteria:

31 (a) The renewable energy system is connected to equipment capable
32 of measuring the electricity production of the system and
33 interconnects with the utility's system in a manner that allows the
34 utility, or the customer at the utility's option, to measure and
35 report electronically to the Washington State University energy
36 program the total amount of electricity produced on the premises.

37 (b) If the renewable energy system is a solar energy system, the
38 manufacturer, as the term is defined in section 8 of this act, is
39 registered as a participant in the solar module recycling program
40 described in section 8 of this act.

1 (6) No renewable energy system is eligible for certification to
2 receive annual incentive payments provided under this section for
3 more than the following amounts:

4 (a) Five thousand dollars for a system with under ten kilowatts
5 nameplate capacity;

6 (b) Five thousand dollars per community solar project
7 participant;

8 (c) Five hundred dollars per kilowatt or twenty-five thousand
9 dollars, whichever is less, for any system other than a community
10 solar project that is ten kilowatts or larger.

11 (7) No person may be a participant in more than one community
12 solar project per meter for which the person is a meter holder.

13 (8)(a) To obtain certification to receive the annual production
14 incentive payments provided in this section for electricity produced
15 by a renewable energy system, a person must submit to the Washington
16 State University energy program an application, which must include,
17 but is not limited to, the following:

18 (i) An affidavit that the applicant has not previously received a
19 certification from the department under RCW 82.16.120 entitling any
20 person to receive annual incentive payments for electricity generated
21 by the renewable energy system;

22 (ii) A statement of the amount of annual electricity production
23 expected from the renewable energy system and an estimate of the
24 annual electrical demand of the premises;

25 (iii) Except as provided in (b) of this subsection, the date that
26 the renewable energy system received its final electrical inspection
27 from the applicable local jurisdiction, as well as a copy of the
28 permit; and

29 (iv) Any other information the Washington State University energy
30 program deems necessary in determining eligibility and incentive
31 levels, administering the program, tracking progress toward achieving
32 the limits on program participation established in RCW 82.16.130, or
33 facilitating the review of the performance of the tax preferences by
34 the joint legislative audit and review committee, as described in
35 section 7 of this act.

36 (b) The Washington State University energy program may waive the
37 requirement in (a)(iii) of this subsection, accepting an application
38 and granting certification prior to proof of completed construction
39 of a renewable energy system. A certification issued pursuant to the
40 authority of this subsection (8)(b) will expire one hundred eighty

1 days after the certification's issuance, unless prior to that time
2 the applicant submits proof of the final electrical inspection from
3 the applicable local jurisdiction.

4 (9) Within thirty days of receipt of the application for
5 certification, the Washington State University energy program must
6 notify the applicant and the utility serving the situs of the system,
7 by mail or electronically, of whether certification has been granted.
8 The certification notice must state the rate to be paid per kilowatt-
9 hour of electricity generated by the renewable energy system, as
10 provided in subsection (11) of this section, subject to any
11 applicable cap on total annual payment provided in subsection (6) of
12 this section.

13 (10) Certification is valid for ten years and may not be
14 retroactively changed, except it may be adjusted in response to later
15 discovered errors in the original application or certification.
16 Certification of a renewable energy system follows the system with
17 the transfer of property if the owner of the renewable energy system
18 notifies the Washington State University energy program of the
19 transfer and the customer-owner provides an interconnection agreement
20 signed by the new customer-owner and the utility serving the
21 premises.

22 (11) The Washington State University energy program must
23 determine the total incentive rate for a new renewable energy system
24 certification by adding to the base rate any applicable bonus rates.

25 (a) For new systems certified between July 1, 2017, and December
26 31, 2017, the base incentive rate available under this section,
27 payable for a period of ten years from the date that a system
28 commences operation, per kilowatt-hour generated by the renewable
29 energy system, is sixteen cents per kilowatt-hour for a residential-
30 scale renewable energy system or community solar project and ten
31 cents per kilowatt-hour for a commercial-scale renewable energy
32 system.

33 (b) In 2018, a bonus rate must be available that is twelve cents
34 per kilowatt-hour for electricity generated by a renewable energy
35 system with solar modules made in Washington or with a wind turbine
36 or tower that is made in Washington.

37 (c) For new system certifications beginning in calendar year
38 2018, the base rates and the bonus rates for made in Washington
39 systems and smart inverters must decline as follows:

	Calendar year of system certification	Base rate - residential and community solar projects	Base rate - commercial	Made in Washington bonus
7	2018	\$0.150	\$0.100	\$0.120
8	2019	\$0.135	\$0.085	\$0.105
9	2020	\$0.110	\$0.070	\$0.090

10 (d) For purposes of this section, the Washington State University
11 energy program must define when a renewable energy system commences
12 operation.

13 (12) The Washington State University energy program must cease to
14 issue new certifications:

15 (a) For community solar projects in any fiscal year that twenty-
16 five percent of available funds for credit that year under this
17 section have been allocated to community solar projects; and

18 (b) For any additional renewable energy system served by a
19 utility if certification is likely to result in incentive payments by
20 that utility exceeding the utility's available funds for credit under
21 RCW 82.16.130.

22 (13) If the Washington State University energy program ceases
23 issuing new certifications during a fiscal year or biennium as
24 provided in subsection (12) of this section, in the following fiscal
25 year or biennium, or when additional funds are available for credit
26 such that the thresholds described in subsection (12) of this section
27 are no longer exceeded, the Washington State University energy
28 program must resume issuing new certifications using a method of
29 awarding certifications that results in equitable and orderly
30 allocation of benefits to applicants.

31 (14) In order to begin to receive annual incentive payments, a
32 person who has been issued a certification for the incentive as
33 provided in subsection (9) of this section must submit the
34 certification to the utility serving the situs of the system.

35 (15) The Washington State University energy program must
36 establish a list of equipment that is eligible for the bonus rates
37 described in subsection (11) of this section. The Washington State
38 University energy program must, in consultation with the department

1 of commerce, develop technical specifications and guidelines to
2 ensure consistent and predictable determination of eligibility. A
3 solar module is made in Washington for purposes of receiving the
4 bonus rate only if the lamination of the module takes place in
5 Washington. A wind turbine is made in Washington only if it is
6 powered by a turbine or built with a tower manufactured in
7 Washington.

8 (16) The manufacturer of a renewable energy system component
9 subject to a bonus rate under subsection (11) of this section may
10 apply to the Washington State University energy program to receive a
11 determination of eligibility for such bonus rates. The Washington
12 State University energy program must publish a list of components
13 that have been certified as eligible for such bonus rates. The
14 Washington State University energy program may assess an equipment
15 certification fee to recover its costs.

16 (17) Annually, the applicant or the utility, at the utility's
17 option, must electronically report to the Washington State University
18 energy program the amount of gross kilowatt-hours generated by each
19 renewable energy system since the prior annual report.

20 (18)(a) The Washington State University energy program must
21 calculate for the year and provide to the utility the amount of the
22 incentive payment due to each participant and the total amount of
23 credit against tax due available to the utility under RCW 82.16.130
24 that has been allocated as annual incentive payments. Upon notice to
25 the Washington State University energy program, a utility may opt to
26 directly perform this calculation and provide its results to the
27 Washington State University energy program.

28 (b) No person is eligible for incentive payments under this
29 section for electricity generated in excess of the estimated
30 kilowatt-hours to be consumed annually at the metered location,
31 except in the case of a community solar project.

32 (c) If the Washington State University energy program identifies
33 an abnormal production claim, it must notify the utility and the
34 applicant and recommend withholding payment until the applicant has
35 demonstrated that the production claim is accurate and valid.

36 (19) Within sixty days of receipt of the information required
37 under subsection (18)(a) of this section from the Washington State
38 University energy program, the utility must issue the incentive
39 payment.

1 (20) The Washington State University energy program must post on
2 its web site and update quarterly a report, by utility, of:

3 (a) The certification limits for various system types and sizes
4 established under subsection (12) of this section; and

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

8 (21) Persons receiving incentive payments under this section must
9 keep and preserve suitable records as may be necessary to determine
10 the amount of incentive payments applied for and received. The
11 Washington State University energy program may direct a utility to
12 cease issuing incentive payments if the records are not made
13 available for examination upon request. A utility receiving such a
14 directive is not liable to the recipient for any incentive payments
15 or other damages for ceasing payments pursuant to the directive.

16 (22) The nonpower attributes of the renewable energy system
17 belong to the customer who hosts the system or, in the case of a
18 community solar project, the participant, unless, in the case of a
19 utility-owned system, the contract clearly specifies that the
20 attributes will be retained by the utility.

21 (23) All lists, technical specifications, determinations, and
22 guidelines developed under this section must be made publicly
23 available online.

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

26 (25) The Washington State University energy program may establish
27 fees to recover all or a portion of its costs in administering the
28 incentive program.

29 (26) The Washington State University energy program may, through
30 a public process, develop any program requirements and policies
31 necessary for the administration of this section, RCW 82.16.120, and
32 section 6 of this act. The department of revenue is authorized, in
33 consultation with the Washington State University energy program, to
34 adopt any rules necessary for administration of the program.

35 (27) Applications, certifications, requests for incentive
36 payments under this section, and the information contained therein
37 are not deemed tax information under RCW 82.32.330 and are subject to
38 disclosure.

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

3 (1) Beginning July 1, 2017, a utility or nonprofit organization
4 is eligible to organize and administer a community solar project as
5 provided in this section.

6 (2) The purpose of the community solar project is to facilitate
7 broad community investment and access to solar power by utility
8 customers who might otherwise not be able to directly invest in or
9 access the benefits of solar power.

10 (a) A utility or nonprofit organization participating in a
11 community solar project is encouraged to consult with low-income
12 housing providers to identify projects reasonably expected to
13 contribute to broader community participation in the benefits
14 conferred by this tax preference.

15 (b) In consultation with the Washington State University
16 extension energy program, each utility organizing and administering a
17 community solar project must establish and publish procedures to
18 ensure that the electric utility's program is consistent with the
19 purpose of this section.

20 (c) Each utility or nonprofit organization administering a
21 community solar project must do so in a transparent manner that
22 allows for fair and nondiscriminatory opportunity for participation
23 by utility customers.

24 (3) A community solar project must have:

25 (a) A direct current nameplate capacity that is no more than five
26 hundred kilowatts; and

27 (b) At least ten participants, each of which is a customer of the
28 utility providing service at the situs of the community solar
29 project.

30 (4) If the community solar project is organized and administered
31 by a nonprofit organization, the nonprofit organization must submit a
32 project proposal, including a business plan, to the Washington State
33 University extension energy program.

34 (a) Before January 1, 2018, the Washington State University
35 extension energy program must publish guidelines that the Washington
36 State University extension energy program will use in determining
37 eligibility of projects submitted under this subsection (4).

38 (b) In determining whether a project submitted under this
39 subsection by a nonprofit organization is eligible to receive the
40 incentive provided in section 5 of this act, the Washington State

1 University extension energy program must consider the extent to which
2 the project will expand access in the solar marketplace to a greater
3 range of participants, increase the cost-effectiveness of the state
4 investment, afford a benefit to low-income individuals, and achieve
5 any other objectives consistent with the purposes of this chapter.

6 (5) The utility or nonprofit organization administering a
7 community solar project may establish a reasonable fee to cover costs
8 incurred in organizing and administering the community solar project.
9 Project participants, prior to making the commitment to participate
10 in the project, must be given clear and conspicuous notice of the
11 portion of the incentive payment that will be used for this purpose.

12 (6) A utility may use a portion of the total incentive payment
13 provided under this section for a community solar project, up to two
14 cents per kilowatt-hour, to subsidize programs that broaden access to
15 solar power or ownership of solar energy systems by low-income
16 customers, if so authorized through a public process by the
17 commission or governing body.

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

20 (1) This section is the tax preference performance statement for
21 the tax preference and incentives created under RCW 82.16.130 and
22 section 5 of this act. This performance statement is only intended to
23 be used for subsequent evaluation of the tax preference and
24 incentives. It is not intended to create a private right of action by
25 any party or be used to determine eligibility for preferential tax
26 treatment.

27 (2) The legislature categorizes the tax preference and incentive
28 created in section 5 of this act as intended to induce certain
29 designated behavior by taxpayers, as indicated in RCW
30 82.32.808(2)(a), and to create or retain jobs, as indicated in RCW
31 82.32.808(2)(c).

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

33 (a) To increase and improve utilization of clean energy
34 technology in Washington; and

35 (b) To increase the number of jobs in and enhance the
36 sustainability of the clean energy technology industry in Washington.

37 (4) It is the legislature's intent to provide the incentives in
38 section 5 of this act and RCW 82.16.130 in order to reduce the costs
39 associated with installing and operating clean energy systems by

1 persons or entities receiving the incentive and to reduce the costs
2 for providing those incentives by entities receiving a credit under
3 RCW 82.16.130, thereby increasing the ability for clean energy
4 technology firms to access the energy market and expand their
5 operations in Washington and increasing the number of jobs in the
6 clean energy technology industry in Washington.

7 (5) As part of its 2019 tax preference reviews conducted under
8 chapter 43.136 RCW, the joint legislative audit and review committee
9 must review the tax preferences and incentives in section 5 of this
10 act and RCW 82.16.130. The legislature intends for the legislative
11 auditor to determine that the incentive has achieved its desired
12 outcome and no extension of the tax preference is necessary if the
13 following performance milestones are met:

14 (a) Installation of one hundred sixty-five megawatts of solar
15 photovoltaic capacity in Washington by 2020;

16 (b) A five-fold increase in residential wind power and three-fold
17 increase in commercial distributed and community wind power, as
18 compared to 2014 levels;

19 (c) Growth of solar-related employment, as evidenced by an
20 increase in the total number and per capita rate of solar energy-
21 related jobs in Washington, as reported by a relevant trade
22 association in the state and achievement of an improved national
23 ranking for solar energy-related employment and per capita solar
24 energy-related employment, as reported in a nationally recognized
25 report;

26 (d) Creation of a system for capturing data about installed solar
27 systems that can be transferred to utilities, so that utilities can
28 see solar systems as a fleet and manage them with other generation
29 resources; and

30 (e) Creation and propagation of tools for utilities that give
31 them greater situational viewability of what customers' capital
32 investments are being made behind the electricity meter and better
33 understanding of how such investments might fit together efficiently
34 into a ten-year distributed energy resource plan.

35 (6) The legislative auditor must include in its 2019 report to
36 the legislature an overview of market conditions for solar energy
37 system installation in the state and an analysis of how expiration of
38 the tax preference provided in section 5 of this act and RCW
39 82.16.130 may affect the continued development of a sustainable solar
40 industry in Washington. The legislative auditor should consider the

1 levelized cost of solar energy systems installed in 2019, the payback
2 period for such systems for a person or entity installing the system,
3 with or without the solar production incentive, and the average
4 contribution of the state of Washington to the total levelized cost
5 of a solar energy system for a person benefiting from the tax
6 preference, as compared to the average contribution of other states
7 with comparable insolation levels that provide solar production tax
8 incentives.

9 (7) In order to obtain the data necessary to perform the review,
10 the joint legislative audit and review committee may refer to the
11 data collected by the Washington State University extension energy
12 program and the department under the application and certification
13 process established in section 5 of this act, and may obtain
14 employment data from the employment security department.

15 (8) The Washington State University extension energy program is
16 encouraged to collect, through the application process, data from
17 persons receiving the incentive payments created in section 5 of this
18 act, as necessary, and may collect data from other interested persons
19 to report on progress toward achieving the performance milestones
20 listed in subsection (5) of this section.

21 (9) All recipients of tax credits or incentive payments awarded
22 under this chapter must provide any data requested by the Washington
23 State University extension energy program or the joint legislative
24 audit and review committee. Failure to comply may result in the loss
25 of a tax credit award or incentive payment in the following year.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.95N
27 RCW to read as follows:

28 (1) The legislature finds that a convenient, safe, and
29 environmentally sound system for the decommissioning and recycling of
30 solar modules must be established. The legislature further finds that
31 the responsibility for this system must be shared among all
32 stakeholders, with manufacturers financing the decommissioning and
33 recycling system.

34 (2) The department must provide guidance for solar module
35 manufacturers on an effective, self-directed solar module collection
36 and recycling program.

37 (3)(a) The department must review and approve or disapprove any
38 solar module collection and recycling program plans submitted by a

1 manufacturer. The department must approve a manufacturer's plan if it
2 determines that the plan:

3 (i) Is reasonably calculated to maximize collection rates and
4 minimize disposal of solar modules or components of solar modules as
5 waste;

6 (ii) Is reasonably designed to maximize the amount of material
7 responsibly recycled given the current market circumstances; and

8 (iii) Includes a mechanism for financing the collection,
9 transportation, and recycling of solar modules.

10 (b) The department may consult with the Washington State
11 University extension energy program concerning solar market
12 conditions and any other information considered necessary to
13 determine if a solar module collection and recycling program is cost-
14 effective and protective of the environment.

15 (4) Beginning January 1, 2019, in order for a solar energy system
16 to be eligible for incentive payments under section 6 of this act, a
17 manufacturer of the solar module must have a plan filed with the
18 department consistent with the purposes of this section, and must
19 have implemented any financial mechanism identified by the plan as
20 provided in subsection (3)(a)(iii) of this section.

21 (5) By February 1, 2018, the department must establish and
22 implement a process to provide guidance described in subsection (2)
23 of this section and plan review and approval described in subsections
24 (3) and (4) of this section and consult with manufacturers that may
25 file a plan prior to the establishment of the plan review and
26 approval process. Upon adoption by the department of a plan review
27 and approval process, the department must expedite review and
28 approval of any previously filed plans.

29 (6) The department may collect a fee from participating
30 manufacturers for the plan review and approval process. The fee is to
31 be charged based on the following formula: Department administrative
32 costs divided by the manufacturer's pro rata share of the Washington
33 state solar module sales in the most recent preceding calendar year,
34 based on the best available information or estimate from the
35 Washington State University extension energy program.

36 (7) For purposes of this section, "manufacturer" means any
37 person, in business or no longer in business but having a successor
38 in interest, who, irrespective of the selling technique used,
39 including by means of distance or remote sale:

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

3 (b) Assembles or has assembled a solar module that uses parts
4 manufactured by others for sale in or into this state under the
5 assembler's brand names;

6 (c) Resells or has resold in or into this state under its own
7 brand names a solar module produced by other suppliers, including
8 retail establishments that sell solar modules under their own brand
9 names;

10 (d) Manufactures or manufactured a cobranded solar module product
11 for sale in or into this state that carries the name of both the
12 manufacturer and a retailer;

13 (e) Imports or has imported a solar module into the United States
14 that is sold in or into this state. However, if the imported solar
15 module is manufactured by any person with a presence in the United
16 States meeting the criteria of manufacturer under (a) through (d) of
17 this subsection, that person is the manufacturer;

18 (f) Sells at retail a solar module acquired from an importer that
19 is the manufacturer as described in (e) of this subsection, and
20 elects to register in lieu of the importer as the manufacturer for
21 those products; or

22 (g) Elects to assume the responsibility and register in lieu of a
23 manufacturer as defined under this section.

24 **Sec. 9.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each
25 amended to read as follows:

26 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
27 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
28 directly in generating electricity using fuel cells, wind, sun,
29 biomass energy, tidal or wave energy, geothermal resources, anaerobic
30 digestion, technology that converts otherwise lost energy from
31 exhaust, or landfill gas as the principal source of power, or to
32 sales of or charges made for labor and services rendered in respect
33 to installing such machinery and equipment, are eligible for an
34 exemption as provided in this section, but only if the purchaser
35 develops with such machinery, equipment, and labor a facility capable
36 of generating not less than one thousand watts of electricity.

37 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
38 levied by RCW 82.08.020 does not apply to the sale of machinery and
39 equipment described in (a) of this subsection that are used directly

1 in generating electricity or to sales of or charges made for labor
2 and services rendered in respect to installing such machinery and
3 equipment.

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

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

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

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

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

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

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

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

12 (b) Machinery and equipment is "used directly" in generating
13 electricity by fuel cells if it provides any part of the process that
14 captures the energy of the fuel, converts that energy to electricity,
15 and stores, transforms, or transmits that electricity for entry into
16 or operation in parallel with electric transmission and distribution
17 systems.

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

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

36 (5) The exemption provided by this section expires June 30, 2017,
37 as it applies to: (a) Machinery and equipment that is used directly
38 in the generation of electricity using solar energy and capable of
39 generating no more than five hundred kilowatts of electricity; or (b)

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

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

4 **Sec. 10.** RCW 82.08.963 and 2013 2nd sp.s. c 13 s 1602 are each
5 amended to read as follows:

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

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

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

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

33 (c) Machinery and equipment is "used directly" in generating
34 electricity with solar energy if it provides any part of the process
35 that captures the energy of the sun, converts that energy to
36 electricity, and stores, transforms, or transmits that electricity
37 for entry into or operation in parallel with electric transmission
38 and distribution systems; and

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

8 (3) The exemption provided by this section for the sales of
9 machinery and equipment that is used directly in the generation of
10 electricity using solar energy, or for sales of or charges made for
11 labor or services rendered in respect to installing such machinery
12 and equipment, expires June 30, 2017.

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

14 **Sec. 11.** RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each
15 amended to read as follows:

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

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

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

38 (2)(a) A person claiming an exemption in the form of a remittance
39 under subsection (1)(c) of this section must pay the tax imposed by

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

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

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

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

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

22 (a) To machinery and equipment used directly in the generation of
23 electricity using solar energy and capable of generating no more than
24 five hundred kilowatts of electricity, or to sales of or charges made
25 for labor and services rendered in respect to installing such
26 machinery and equipment, when first use within this state of such
27 machinery and equipment, or labor and services, occurs after June 30,
28 2017; and

29 (b) To any other machinery and equipment described in subsection
30 (1)(a) of this section, or to sales of or charges made for labor and
31 services rendered in respect to installing such machinery or
32 equipment, when first use within this state of such machinery and
33 equipment, or labor and services, occurs after June 30, 2019.

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

35 **Sec. 12.** RCW 82.12.963 and 2013 2nd sp.s. c 13 s 1603 are each
36 amended to read as follows:

37 (1) The provisions of this chapter do not apply with respect to
38 machinery and equipment used directly in generating not more than ten
39 kilowatts of electricity or producing not more than three million

1 British thermal units per day using solar energy, or to the use of
2 labor and services rendered in respect to installing such machinery
3 and equipment.

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

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

6 (a) To the use of machinery and equipment used directly in the
7 generation of electricity using solar energy, or to the use of labor
8 and services rendered in respect to installing such machinery and
9 equipment, when first use within this state of such machinery and
10 equipment, or labor and services, occurs after June 30, 2017; and

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

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

--- END ---