
SENATE BILL 5493

State of Washington

67th Legislature

2022 Regular Session

By Senator J. Wilson

Prefiled 12/06/21.

1 AN ACT Relating to reopening the renewable energy system
2 incentive program for residential-scale systems; amending RCW
3 82.16.165, 82.16.110, and 82.16.130; repealing RCW 82.16.120 and
4 82.16.155; and providing an effective date.

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

6 **Sec. 1.** RCW 82.16.165 and 2017 3rd sp.s. c 36 s 6 are each
7 amended to read as follows:

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

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

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

20 (c) A utility or a business under contract with a utility that
21 administers a shared commercial solar project that meets the

1 eligibility requirements in RCW 82.16.175 and applies for
2 certification on behalf of each of the project participants.

3 (2) No person, business, or household is eligible to receive
4 incentive payments provided under subsection (1) of this section of
5 more than five thousand dollars per year for residential systems or
6 community solar projects, twenty-five thousand dollars per year for
7 commercial-scale systems, or thirty-five thousand dollars per year
8 for shared commercial solar projects.

9 (3) (a) No new certification may be issued under this section to
10 an applicant who (~~submits~~) submitted a request for or (~~receives~~)
11 received an annual incentive payment for a renewable energy system
12 that was certified under (~~RCW 82.16.120~~) a previous state incentive
13 program before the effective date of this section, or for a renewable
14 energy system served by a utility that has elected not to participate
15 in the incentive program, as provided in subsection (4) of this
16 section.

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

22 (c) The Washington State University extension energy program may
23 issue a recertification for a residential-scale or commercial-scale
24 system if a customer makes investments resulting in an expansion of
25 the system's nameplate capacity. Such recertification expires on the
26 same day as the original certification for the residential-scale or
27 commercial-scale system and applies to the entire system the
28 incentive rates and program rules in effect as of the date of the
29 recertification.

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

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

35 (b) The utility may terminate its voluntary participation in the
36 production incentive program by providing notice in writing to the
37 Washington State University extension energy program to cease issuing
38 new certifications for renewable energy systems that would be served
39 by that utility.

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

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

11 (e) A utility's termination of participation does not affect the
12 utility's obligation to continue to make annual incentive payments
13 for electricity generated by systems that were certified prior to the
14 effective date of the notice. The Washington State University
15 extension energy program must continue to process and issue
16 certifications for renewable energy systems that were received by the
17 Washington State University extension energy program before the
18 effective date of the notice of termination.

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

22 (5) (a) The Washington State University extension energy program
23 may certify a renewable energy system that is connected to equipment
24 capable of measuring the electricity production of the system and
25 interconnecting with the utility's system in a manner that allows the
26 utility, or the customer at the utility's option, to measure and
27 report to the Washington State University extension energy program
28 the total amount of electricity produced by the renewable energy
29 system.

30 (b) The Washington State University extension energy program must
31 establish a reporting and fee-for-service system to accept
32 electricity production data from the utility or the customer that is
33 not reported electronically and with the reporting entity selected at
34 the utility's option as described in subsection (19) of this section.
35 The fee-for-service agreement must allow for electronic reporting or
36 reporting by mail, may be specific to individual utilities, and must
37 recover only the program's costs of obtaining the electricity
38 production data and incorporating it into an electronic format. A
39 statement of the amount due for the fee-for-service must be provided
40 to the utility by the Washington State University extension energy

1 program with the report provided to the utility pursuant to
2 subsection (20)(a) of this section. The utility may determine how to
3 assess and remit the fee, and the utility may be allowed a credit for
4 fees paid under this subsection (5) against taxes due, as provided in
5 RCW 82.16.130(1).

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

9 (a) For community solar projects, five thousand dollars per
10 project participant;

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

12 (c) For commercial-scale systems, twenty-five thousand dollars;
13 and

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

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

20 (i) A signed statement that the applicant has not previously
21 received a notice of eligibility (~~(from the department under RCW~~
22 ~~82.16.120)~~) entitling the applicant to receive annual incentive
23 payments for electricity generated by the renewable energy system at
24 the same meter location;

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

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

29 (iv) Any other information the Washington State University
30 extension energy program deems necessary in determining eligibility
31 and incentive levels, administering the program, or tracking progress
32 toward achieving the limits on program participation established in
33 RCW 82.16.130(~~(, or facilitating the review of the performance of the~~
34 ~~tax preferences by the joint legislative audit and review committee,~~
35 ~~as described in RCW 82.16.155))~~); and

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

1 (B) The Washington State University extension energy program may
2 waive the requirement in (a)(v)(A) of this subsection (7), accepting
3 an application and granting provisional certification prior to proof
4 of final electrical inspection. Provisional certification expires one
5 hundred eighty days after issuance, unless the applicant submits
6 proof of the final electrical inspection from the applicable local
7 jurisdiction or the Washington State University extension energy
8 program extends the certification, for a term or terms of thirty
9 days, due to extenuating circumstances; and

10 (b)(i) Prior to obtaining certification under this subsection, a
11 community solar project or shared commercial solar project must apply
12 for precertification against the remaining funds available for
13 incentive payments under subsection (13)(d) of this section in order
14 to be guaranteed an incentive payment under this section;

15 (ii) A project applicant of a community solar project or shared
16 commercial solar project must complete an application for
17 certification with the Washington State University extension energy
18 program within less than one year to retain the precertification
19 status described in this subsection; and

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

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

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

37 (10) Certification is valid for the program term and entitles the
38 applicant or, in the case of a community solar project or shared
39 commercial solar project, the participant, to receive incentive
40 payments for electricity generated from the date the renewable energy

1 system commences operation, or the date the system is certified,
 2 whichever date is later. For purposes of this subsection, the
 3 Washington State University extension energy program must define when
 4 a renewable energy system commences operation and provide notice of
 5 such date to the recipient and the utility serving the situs of the
 6 system. Certification may not be retroactively changed except to
 7 correct later discovered errors that were made during the original
 8 application or certification process.

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

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

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

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

24 (12) The Washington State University extension energy program
 25 must determine the total incentive rate for a new renewable energy
 26 system certification by adding to the base rate any applicable made-
 27 in-Washington bonus rate. A made-in-Washington bonus rate is provided
 28 for a renewable energy system or a community solar project with solar
 29 modules made in Washington or with a wind turbine or tower that is
 30 made in Washington. Both the base rates and bonus rate vary,
 31 depending on the fiscal year in which the system is certified and the
 32 type of renewable energy system being certified, as provided in the
 33 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)) <u>2022</u>	\$0.16	(((\$0.06))	(((\$0.16))	(((\$0.06))	\$0.05
((2019)) <u>2023</u>	\$0.14	(((\$0.04))	(((\$0.14))	(((\$0.04))	\$0.04

1	((2020)) <u>2024</u>	\$0.12	((\\$0.02))	((\\$0.12))	((\\$0.02))	\$0.03
2	((2021)) <u>2025</u>	\$0.10	((\\$0.02))	((\\$0.10))	((\\$0.02))	\$0.02

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

(a) For community solar projects and shared commercial solar projects in any fiscal year for which the Washington State University extension energy program estimates that fifty percent of the remaining funds for credit available to a utility for renewable energy systems certified under this section as of July 1, ~~((2017))~~ 2022, have been allocated to community solar projects and shared commercial solar projects combined;

(b) For commercial-scale systems in any fiscal year for which the Washington State University extension energy program estimates that twenty-five percent of the remaining funds for credit available to a utility for renewable energy systems certified under this section as of July 1, ~~((2017))~~ 2022, have been allocated to commercial-scale systems;

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

(d) For any renewable energy system, if certification is likely to result in total incentive payments under this section exceeding one hundred ten million dollars after July 1, 2022.

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

(15) A customer who is a participant in a shared commercial solar project may not receive incentive payments associated with the project greater than the difference between the levelized cost of energy output of the system over its production life and the retail rate for the rate class to which the customer belongs. The levelized cost of the output of the energy must be determined by the utility

1 that administers the shared commercial solar project and must be
2 disclosed, along with an explanation of the limitations on incentive
3 payments contained in this subsection (15), in the contractual
4 agreement with the shared commercial solar project participants.

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

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

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

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

1 the utility exercises one or more of these options it must negotiate
2 with the Washington State University extension energy program the
3 fee-for-service arrangement described in subsection (5)(b) of this
4 section.

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

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

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

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

33 (22) (~~Beginning January 1, 2018, the~~) The Washington State
34 University extension energy program must post on its website and
35 update at least monthly a report, by utility, of:

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

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

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

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

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

25 (26) No certification may be issued under this section after June
26 30, 2021, except for residential-scale systems, which may be
27 certified until July 1, 2025.

28 (27) The Washington State University extension energy program
29 must collect a one-time fee for applications submitted under
30 subsection (1) of this section of one hundred twenty-five dollars per
31 applicant. The Washington State University extension energy program
32 must deposit all revenue generated by this fee into the state general
33 fund. The Washington State University extension energy program must
34 administer and budget for the program established in ((RCW
35 ~~82.16.120~~)) this section((7)) and RCW 82.16.170 in a manner that
36 ensures its administrative costs through June 30, ((2022)) 2025, are
37 completely met by the revenues from this fee. If the Washington State
38 University extension energy program determines that the fee
39 authorized in this subsection is insufficient to cover the
40 administrative costs through June 30, ((2022)) 2025, the Washington

1 State University extension energy program must report to the
2 legislature on costs incurred and fees collected and demonstrate why
3 a different fee amount or funding mechanism should be authorized.

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

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

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

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

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

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

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

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

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

37 ~~(C) A description of any barriers to participation by nonprofits~~
38 ~~and local housing authorities in the incentive program established~~
39 ~~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' 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 **Sec. 2.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to
16 read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Administrator" means an owner and assignee of a community
20 solar project as defined in subsection (2)(a)(i) of this section that
21 is responsible for applying for the investment cost recovery
22 incentive on behalf of the other owners and performing such
23 administrative tasks on behalf of the other owners as may be
24 necessary, such as receiving investment cost recovery incentive
25 payments, and allocating and paying appropriate amounts of such
26 payments to the other owners.

27 (2)(a) "Community solar project" means:

28 (i) A solar energy system that is capable of generating up to
29 seventy-five kilowatts of electricity and is owned by local
30 individuals, households, nonprofit organizations, or nonutility
31 businesses that is placed on the property owned by a cooperating
32 local governmental entity that is not in the light and power business
33 or in the gas distribution business;

34 (ii) A utility-owned solar energy system that is capable of
35 generating up to seventy-five kilowatts of electricity and that is
36 voluntarily funded by the utility's ratepayers where, in exchange for
37 their financial support, the utility gives contributors a payment or
38 credit on their utility bill for the value of the electricity
39 produced by the project; or

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

8 (b) For the purposes of "community solar project" as defined in
9 (a) of this subsection:

10 (i) "Company" means an entity that is:

11 (A) (I) A limited liability company;

12 (II) A cooperative formed under chapter 23.86 RCW; or

13 (III) A mutual corporation or association formed under chapter
14 24.06 RCW; and

15 (B) Not a "utility" as defined in this subsection (2)(b); and

16 (ii) "Nonprofit organization" means an organization exempt from
17 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal
18 revenue code of 1986, as amended, as of (~~January 1, 2009~~) the
19 effective date of this section; and

20 (iii) "Utility" means a light and power business, an electric
21 cooperative, or a mutual corporation that provides electricity
22 service.

23 (3) "Customer-generated electricity" means a community solar
24 project or the alternating current electricity that is generated from
25 a renewable energy system located in Washington and installed on an
26 individual's, businesses', or local government's real property that
27 is also provided electricity generated by a light and power business.
28 Except for community solar projects, a system located on a leasehold
29 interest does not qualify under this definition. Except for utility-
30 owned community solar projects, "customer-generated electricity" does
31 not include electricity generated by a light and power business with
32 greater than one thousand megawatt-hours of annual sales or a gas
33 distribution business.

34 (4) "Economic development kilowatt-hour" means the actual
35 kilowatt-hour measurement of customer-generated electricity
36 multiplied by the appropriate economic development factor.

37 (5) "Local governmental entity" means any unit of local
38 government of this state including, but not limited to, counties,
39 cities, towns, municipal corporations, quasi-municipal corporations,
40 special purpose districts, and school districts.

1 (6) "Photovoltaic cell" means a device that converts light
2 directly into electricity without moving parts.

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

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

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

11 (10) "Solar module" means the smallest nondivisible self-
12 contained physical structure housing interconnected photovoltaic
13 cells and providing a single direct current electrical output.

14 (11) "Stirling converter" means a device that produces
15 electricity by converting heat from a solar source utilizing a
16 stirling engine.

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

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

21 (a) Incentive payments made in any fiscal year under RCW
22 (~~82.16.120 and~~) 82.16.165; and

23 (b) Any fees a utility is allowed to recover pursuant to RCW
24 82.16.165(5).

25 (2) The credits must be taken in a form and manner as required by
26 the department. The credit taken under this section for the fiscal
27 year may not exceed one and one-half percent of the businesses'
28 taxable power sales generated in calendar year 2014 (~~and due under~~
29 ~~RCW 82.16.020(1)(b))~~) or two hundred fifty thousand dollars,
30 whichever is greater.

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

35 (4) (~~For any business that has claimed credit for amounts that~~
36 ~~exceed the correct amount of the incentive payable under RCW~~
37 ~~82.16.120, the amount of tax against which credit was claimed for the~~
38 ~~excess payments is immediately due and payable. The department may~~
39 ~~deduct amounts due from future credits claimed by the business.))~~)

1 (a) Except as provided in (b) of this subsection, the department
2 must assess interest but not penalties on the taxes against which the
3 credit was claimed. Interest must be assessed at the rate provided
4 for delinquent excise taxes under chapter 82.32 RCW, retroactively to
5 the date the credit was claimed, and accrues until the taxes against
6 which the credit was claimed are repaid.

7 (b) A business is not liable for excess payments made in reliance
8 on amounts reported by the Washington State University extension
9 energy program as due and payable as provided under RCW
10 82.16.165(20), if such amounts are later found to be abnormal or
11 inaccurate due to no fault of the business.

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

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

18 ~~(7))~~ The right to earn tax credits for incentive payments made
19 under RCW 82.16.165 expires June 30, ((2029)) 2033. Credits may not
20 be claimed after June 30, ((2030)) 2034.

21 NEW SECTION. **Sec. 4.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 82.16.120 (Renewable energy system cost recovery—
24 Application to light/power business—Certification—Limitations) and
25 2017 3rd sp.s. c 36 s 3 & 2011 c 179 s 3; and

26 (2) RCW 82.16.155 (Tax preference performance statement—Joint
27 legislative audit and review committee review—Washington State
28 University data collection) and 2017 3rd sp.s. c 36 s 2.

29 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2022.

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