

---

ENGROSSED SUBSTITUTE SENATE BILL 5939

---

State of Washington                      65th Legislature      2017 3rd Special Session

By Senate Ways & Means (originally sponsored by Senators Ericksen and Palumbo)

READ FIRST TIME 06/30/17.

1            AN ACT Relating to promoting a sustainable, local renewable  
2 energy industry through modifying renewable energy system tax  
3 incentives and providing guidance for renewable energy system  
4 component recycling; amending RCW 82.16.120, 82.16.130, 82.08.962,  
5 82.08.963, 82.12.962, and 82.12.963; adding new sections to chapter  
6 82.16 RCW; adding new sections to chapter 80.28 RCW; adding a new  
7 section to chapter 43.180 RCW; adding a new chapter to Title 70 RCW;  
8 creating a new section; and declaring an emergency.

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

10            NEW SECTION.    **Sec. 1.**    The legislature finds and declares that  
11 stimulating local investment in distributed renewable energy  
12 generation is an important part of a state energy strategy, helping  
13 to increase energy independence from fossil fuels, promote economic  
14 development, hedge against the effects of climate change, and attain  
15 environmental benefits. The legislature intends to increase the  
16 effectiveness of the existing renewable energy investment cost  
17 recovery program by reducing the maximum incentive rate provided for  
18 each kilowatt-hour of electricity generated by a renewable energy  
19 system over the period of the program and by creating opportunities  
20 for broader participation by low-income individuals and others who  
21 may not own the premises where a renewable energy system may be

1 installed. The legislature intends to provide an incentive sufficient  
2 to promote installation of systems through 2021, at which point the  
3 legislature expects that the state's renewable energy industry will  
4 be capable of sustained growth and vitality without the cost recovery  
5 incentive. The legislature intends for the program to balance the  
6 deployment of community solar and shared commercial solar projects in  
7 order to support participation in renewable energy generation, and  
8 that deployment of community solar projects is balanced among  
9 eligible utilities, nonprofits, and local housing authorities, as  
10 doing so will support maximum deployment of renewable energy  
11 generation throughout the state.

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

14 (1) This section is the tax preference performance statement for  
15 the tax preference and incentives created under RCW 82.16.130 and  
16 section 6 of this act. This performance statement is only intended to  
17 be used for subsequent evaluation of the tax preference and  
18 incentives. It is not intended to create a private right of action by  
19 any party or be used to determine eligibility for preferential tax  
20 treatment.

21 (2) The legislature categorizes the tax preference created under  
22 RCW 82.16.130 and incentive payments authorized in section 6 of this  
23 act as intended to:

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

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

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

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

31 (b) Promote economic development through increasing and improving  
32 investment in, development of, and use of clean energy technology in  
33 Washington; and

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

36 (4) It is the legislature's intent to provide the incentives in  
37 section 6 of this act and RCW 82.16.130 in order to ensure the  
38 sustainable job growth and vitality of the state's renewable energy  
39 sector. The purpose of the incentive is to reduce the costs

1 associated with installing and operating solar energy systems by  
2 persons or entities receiving the incentive.

3 (5) As part of its 2021 tax preference reviews, the joint  
4 legislative audit and review committee must review the tax  
5 preferences and incentives in section 6 of this act and RCW  
6 82.16.130. The legislature intends for the legislative auditor to  
7 determine that the incentive has achieved its desired outcomes if the  
8 following objectives are achieved:

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

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

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

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

20 (6) In order to obtain the data necessary to perform the review,  
21 the joint legislative audit and review committee may refer to data  
22 collected by the Washington State University extension energy program  
23 and may obtain employment data from the employment security  
24 department.

25 (7) The Washington State University extension energy program must  
26 collect, through the application process, data from persons claiming  
27 the tax credit under RCW 82.16.130 and persons receiving the  
28 incentive payments created in section 6 of this act, as necessary,  
29 and may collect data from other interested persons as necessary to  
30 report on the performance of this act.

31 (8) All recipients of tax credits or incentive payments awarded  
32 under this chapter must provide data necessary to evaluate the tax  
33 preference performance objectives in this section as requested by the  
34 Washington State University extension energy program or the joint  
35 legislative audit and review committee. Failure to comply may result  
36 in the loss of a tax credit award or incentive payment in the  
37 following year.

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

1 (1)(a) Any individual, business, local governmental entity, not  
2 in the light and power business or in the gas distribution business,  
3 or a participant in a community solar project may apply to the light  
4 and power business serving the situs of the system, each fiscal year  
5 beginning on July 1, 2005, and ending June 30, 2017, for an  
6 investment cost recovery incentive for each kilowatt-hour from a  
7 customer-generated electricity renewable energy system.

8 (b) In the case of a community solar project as defined in RCW  
9 82.16.110(2)(a)(i), the administrator must apply for the investment  
10 cost recovery incentive on behalf of each of the other owners.

11 (c) In the case of a community solar project as defined in RCW  
12 82.16.110(2)(a)(iii), the company owning the community solar project  
13 must apply for the investment cost recovery incentive on behalf of  
14 each member of the company.

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

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

25 (c) The certification must include:

26 (i) The name and address of the applicant and location of the  
27 renewable energy system.

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

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

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

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

39 (A) Any solar inverters and solar modules manufactured in  
40 Washington state;

1 (B) A wind generator powered by blades manufactured in Washington  
2 state;

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

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

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

6 (F) Solar or wind equipment manufactured outside of Washington  
7 state;

8 (iv) That the electricity can be transformed or transmitted for  
9 entry into or operation in parallel with electricity transmission and  
10 distribution systems; and

11 (v) The date that the renewable energy system received its final  
12 electrical ~~((permit))~~ inspection from the applicable local  
13 jurisdiction.

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

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

28 (i) The name and address of the applicant and location of the  
29 renewable energy system.

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

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

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

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

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

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

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

26 (ii) If it appears that the amount of incentive paid is less than  
27 the correct amount of incentive payable the business may authorize  
28 additional payment.

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

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

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

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

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

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

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

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

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

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

34 ~~(6) ((If requests for the investment cost recovery incentive~~  
35 ~~exceed the amount of funds available for credit to the participating~~  
36 ~~light and power business, the incentive payments must be reduced~~  
37 ~~proportionately.~~

38 ~~(7))~~ The climate and rural energy development center at  
39 Washington State University energy program may establish guidelines  
40 and standards for technologies that are identified as Washington

1 manufactured and therefore most beneficial to the state's  
2 environment.

3 ~~((+8))~~ (7) The environmental attributes of the renewable energy  
4 system belong to the applicant, and do not transfer to the state or  
5 the light and power business upon receipt of the investment cost  
6 recovery incentive.

7 ~~((+9))~~ (8) No incentive may be paid under this section for  
8 kilowatt-hours generated before July 1, 2005, or after June 30,  
9 ~~((2020))~~ 2017, except as provided in subsections (10) through (12) of  
10 this section.

11 (9) Beginning October 1, 2017, program management, technical  
12 review, and tracking responsibilities of the department under this  
13 section are transferred to the Washington State University extension  
14 energy program. At the earliest date practicable and no later than  
15 September 30, 2017, the department must transfer all records  
16 necessary for the administration of the remaining incentive payments  
17 due under this section to the Washington State University extension  
18 energy program.

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

24 (11) In order to continue to receive the incentive payment  
25 allowed under subsection (4) of this section, a person or community  
26 solar project administrator who has, by September 30, 2017, submitted  
27 a complete certification to the department under subsection (2) of  
28 this section must apply to the Washington State University extension  
29 energy program by April 30, 2018, for a certification authorizing the  
30 utility serving the situs of the renewable energy system to annually  
31 remit the incentive payment allowed under subsection (4) of this  
32 section for each kilowatt-hour generated by the renewable energy  
33 system through June 30, 2020.

34 (12)(a) The Washington State University extension energy program  
35 must establish an application process and form by which to collect  
36 the system operation data described in section 6(7)(a)(iii) of this  
37 act from each person or community solar project administrator  
38 applying for a certification under subsection (11) of this section.  
39 The Washington State University extension energy program must notify  
40 any applicant that providing this data is a condition of



1 certification and that any certification issued pursuant to this  
2 section is void as of June 30, 2018, if the applicant has failed to  
3 provide the data by that date.

4 (b) Beginning July 1, 2018, the Washington State University  
5 extension energy program must, in a form and manner that is  
6 consistent with the roles and processes established under section 6  
7 (19) and (20) of this act, calculate for the year and provide to the  
8 utility the amount of the incentive payment due to each participant  
9 under subsection (11) of this section.

10 **Sec. 4.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to  
11 read as follows:

12 (1) A light and power business (~~shall be~~) is allowed a credit  
13 against taxes due under this chapter in an amount equal to  
14 (~~investment cost recovery~~):

15 (a) Incentive payments made in any fiscal year under RCW  
16 82.16.120 and section 6 of this act; and

17 (b) Any fees a utility is allowed to recover pursuant to section  
18 6(5) of this act.

19 (2) The credits (~~shall~~) must be taken in a form and manner as  
20 required by the department. The credit taken under this section for  
21 the fiscal year may not exceed one and one-half percent of the  
22 businesses' taxable power sales generated in calendar year 2014 and  
23 due under RCW 82.16.020(1)(b) or ((one)) two hundred fifty thousand  
24 dollars, whichever is greater. ((Incentive payments to participants  
25 in a utility owned community solar project as defined in RCW  
26 82.16.110(2)(a)(ii) may only account for up to twenty five percent of  
27 the total allowable credit. Incentive payments to participants in a  
28 company owned community solar project as defined in RCW  
29 82.16.110(2)(a)(iii) may only account for up to five percent of the  
30 total allowable credit.))

31 (3) The credit may not exceed the tax that would otherwise be due  
32 under this chapter. Refunds (~~shall~~) may not be granted in the place  
33 of 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 (~~(2)~~) (4) For any business that has claimed credit for amounts  
36 that 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 (~~shall be~~) is immediately due and payable. The

1 department may deduct amounts due from future credits claimed by the  
2 business.

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

10 ((+3)) (b) A business is not liable for excess payments made in  
11 reliance on amounts reported by the Washington State University  
12 extension energy program as due and payable as provided under section  
13 6(20) of this act, if such amounts are later found to be abnormal or  
14 inaccurate due to no fault of the business.

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

18 (6) The right to earn tax credits ((under this section)) for  
19 incentive payments made under RCW 82.16.120 expires June 30, 2020.  
20 Credits may not be claimed after June 30, 2021.

21 (7) The right to earn tax credits for incentive payments made  
22 under section 6 of this act expires June 30, ((2020)) 2029. Credits  
23 may not be claimed after June 30, ((2021)) 2030.

24 NEW SECTION. Sec. 5. A new section is added to chapter 82.16  
25 RCW to read as follows:

26 The definitions in this section apply throughout this section and  
27 sections 6 through 8 of this act unless the context clearly requires  
28 otherwise.

29 (1) "Administrator" means the utility, nonprofit, or other local  
30 housing authority that organizes and administers a community solar  
31 project as provided in sections 6 and 7 of this act.

32 (2) "Certification" means the authorization issued by the  
33 Washington State University extension energy program establishing a  
34 person's eligibility to receive annual incentive payments from the  
35 person's utility for the program term.

36 (3) "Commercial-scale system" means a renewable energy system or  
37 systems other than a community solar project or a shared commercial  
38 solar project with a combined nameplate capacity greater than twelve

1 kilowatts that meets the applicable system eligibility requirements  
2 established in section 6 of this act.

3 (4) "Community solar project" means a solar energy system that  
4 has a direct current nameplate generating capacity that is no larger  
5 than one thousand kilowatts and meets the applicable eligibility  
6 requirements established in sections 6 and 7 of this act.

7 (5) "Consumer-owned utility" has the same meaning as in RCW  
8 19.280.020.

9 (6) "Customer-owner" means the owner of a residential-scale or  
10 commercial-scale renewable energy system, where such owner is not a  
11 utility and such owner is a customer of the utility and either owns  
12 the premises where the renewable energy system is installed or  
13 occupies the premises.

14 (7) "Electric utility" or "utility" means a consumer-owned  
15 utility or investor-owned utility as those terms are defined in RCW  
16 19.280.020.

17 (8) "Governing body" has the same meaning as provided in RCW  
18 19.280.020.

19 (9) "Person" means any individual, firm, partnership,  
20 corporation, company, association, agency, or any other legal entity.

21 (10) "Program term" means: (a) For community solar projects,  
22 eight years or until cumulative incentive payments for electricity  
23 produced by the project reach fifty percent of the total system  
24 price, including applicable sales tax, whichever occurs first; and  
25 (b) for other renewable energy systems, including shared commercial  
26 solar projects, eight years or until cumulative incentive payments  
27 for electricity produced by a system reach fifty percent of the total  
28 system price, including applicable sales tax, whichever occurs first.

29 (11) "Renewable energy system" means a solar energy system,  
30 including a community solar project, an anaerobic digester as defined  
31 in RCW 82.08.900, or a wind generator used for producing electricity.

32 (12) "Residential-scale system" means a renewable energy system  
33 or systems located at a single situs with combined nameplate capacity  
34 of twelve kilowatts or less that meets the applicable system  
35 eligibility requirements established in section 6 of this act.

36 (13) "Shared commercial solar project" means a solar energy  
37 system, owned or administered by an electric utility, with a combined  
38 nameplate capacity of greater than one megawatt and not more than  
39 five megawatts and meets the applicable eligibility requirements  
40 established in sections 6 and 8 of this act.

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, the following persons may submit a  
4    one-time application to the Washington State University extension  
5    energy program to receive a certification authorizing the utility  
6    serving the situs of a renewable energy system in the state of  
7    Washington to remit an annual production incentive for each kilowatt-  
8    hour of alternating current electricity generated by the renewable  
9    energy system:

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

12        (b) An administrator of a community solar project meeting the  
13    eligibility requirements outlined in section 7 of this act and  
14    applies for certification on behalf of each of the project  
15    participants; or

16        (c) A utility or a business under contract with a utility that  
17    administers a shared commercial solar project that meets the  
18    eligibility requirements in section 8 of this act and applies for  
19    certification on behalf of each of the project participants.

20        (2) No person, business, or household is eligible to receive  
21    incentive payments provided under subsection (1) of this section of  
22    more than five thousand dollars per year for residential systems or  
23    community solar projects, twenty-five thousand dollars per year for  
24    commercial-scale systems, or thirty-five thousand dollars per year  
25    for shared commercial solar projects.

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

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

37        (c) The Washington State University extension energy program may  
38    issue a recertification for a residential-scale or commercial-scale  
39    system if a customer makes investments resulting in an expansion of  
40    the system's nameplate capacity. Such recertification expires on the

1 same day as the original certification for the residential-scale or  
2 commercial-scale system and applies to the entire system the  
3 incentive rates and program rules in effect as of the date of the  
4 recertification.

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

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

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

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

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

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

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

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

1 report to the Washington State University extension energy program  
2 the total amount of electricity produced by the renewable energy  
3 system.

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

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

23 (a) For community solar projects, five thousand dollars per  
24 project participant;

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

26 (c) For commercial-scale systems, twenty-five thousand dollars;

27 and

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

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

34 (i) A signed statement that the applicant has not previously  
35 received a notice of eligibility from the department under RCW  
36 82.16.120 entitling the applicant to receive annual incentive  
37 payments for electricity generated by the renewable energy system at  
38 the same meter location;

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

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

3 (iv) Any other information the Washington State University  
4 extension energy program deems necessary in determining eligibility  
5 and incentive levels, administering the program, tracking progress  
6 toward achieving the limits on program participation established in  
7 RCW 82.16.130, or facilitating the review of the performance of the  
8 tax preferences by the joint legislative audit and review committee,  
9 as described in section 2 of this act; and

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

15 (B) The Washington State University extension energy program may  
16 waive the requirement in (a)(v)(A) of this subsection (7), accepting  
17 an application and granting provisional certification prior to proof  
18 of final electrical inspection. Provisional certification expires one  
19 hundred eighty days after issuance, unless the applicant submits  
20 proof of the final electrical inspection from the applicable local  
21 jurisdiction or the Washington State University extension energy  
22 program extends the certification, for a term or terms of thirty  
23 days, due to extenuating circumstances; and

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

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

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

37 (8) No incentive payments may be authorized or accrued until the  
38 final electrical inspection and executed interconnection agreement  
39 are submitted to the Washington State University extension energy  
40 program.

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

11           (10) Certification is valid for the program term and entitles the  
12 applicant or, in the case of a community solar project or shared  
13 commercial solar project, the participant, to receive incentive  
14 payments for electricity generated from the date the renewable energy  
15 system commences operation, or the date the system is certified,  
16 whichever date is later. For purposes of this subsection, the  
17 Washington State University extension energy program must define when  
18 a renewable energy system commences operation and provide notice of  
19 such date to the recipient and the utility serving the situs of the  
20 system. Certification may not be retroactively changed except to  
21 correct later discovered errors that were made during the original  
22 application or certification process.

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

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

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

31           (b) In the event that a community solar project participant  
32 terminates their participation in a community solar project, the  
33 system certification follows the system and participation may be  
34 transferred to a new participant. The administrator of a community  
35 solar project must provide notice to the Washington State University  
36 extension energy program of any changes or transfers in project  
37 participation.

38           (12) The Washington State University extension energy program  
39 must determine the total incentive rate for a new renewable energy  
40 system certification by adding to the base rate any applicable made-



1 in-Washington bonus rate. A made-in-Washington bonus rate is provided  
 2 for a renewable energy system or a community solar project with solar  
 3 modules made in Washington or with a wind turbine or tower that is  
 4 made in Washington. Both the base rates and bonus rate vary,  
 5 depending on the fiscal year in which the system is certified and the  
 6 type of renewable energy system being certified, as provided in the  
 7 following table:

| 8  | Fiscal year   | Base rate -       | Base rate -      | Base rate -     | Base rate - shared | Made in    |
|----|---------------|-------------------|------------------|-----------------|--------------------|------------|
| 9  | of system     | residential-scale | commercial-scale | community solar | commercial solar   | Washington |
| 10 | certification |                   |                  |                 |                    | bonus      |
| 11 | 2018          | \$0.16            | \$0.06           | \$0.16          | \$0.06             | \$0.05     |
| 12 | 2019          | \$0.14            | \$0.04           | \$0.14          | \$0.04             | \$0.04     |
| 13 | 2020          | \$0.12            | \$0.02           | \$0.12          | \$0.02             | \$0.03     |
| 14 | 2021          | \$0.10            | \$0.02           | \$0.10          | \$0.02             | \$0.02     |

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

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

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

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

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

36 (14) If the Washington State University extension energy program  
 37 ceases issuing new certifications during a fiscal year or biennium as  
 38 provided in subsection (13) of this section, in the following fiscal

1 year or biennium, or when additional funds are available for credit  
2 such that the thresholds described in subsection (13) of this section  
3 are no longer exceeded, the Washington State University extension  
4 energy program must resume issuing new certifications using a method  
5 of awarding certifications that results in equitable and orderly  
6 allocation of benefits to applicants.

7 (15) A customer who is a participant in a shared commercial solar  
8 project may not receive incentive payments associated with the  
9 project greater than the difference between the levelized cost of  
10 energy output of the system over its production life and the retail  
11 rate for the rate class to which the customer belongs. The levelized  
12 cost of the output of the energy must be determined by the utility  
13 that administers the shared commercial solar project and must be  
14 disclosed, along with an explanation of the limitations on incentive  
15 payments contained in this subsection (15), in the contractual  
16 agreement with the shared commercial solar project participants.

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

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

33 (18) The manufacturer of a renewable energy system component  
34 subject to a bonus rate under subsection (12) of this section may  
35 apply to the Washington State University extension energy program to  
36 receive a determination of eligibility for such bonus rates. The  
37 Washington State University extension energy program must publish a  
38 list of components that have been certified as eligible for such  
39 bonus rates. The Washington State University extension energy program  
40 may assess an equipment certification fee to recover its costs. The

1 Washington State University extension energy program must deposit all  
2 revenue generated by this fee into the state general fund.

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

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

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

33 (21)(a) The utility must issue the incentive payment within  
34 ninety days of receipt of the information required under subsection  
35 (20)(a) of this section from the Washington State University  
36 extension energy program. The utility must resume the incentive  
37 payments withheld under subsection (20)(b) of this section within  
38 thirty days of receiving notice from the Washington State University  
39 extension energy program that the claim has been demonstrated  
40 accurate and valid and payment should be resumed.

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

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

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

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

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

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

31 (25) All lists, technical specifications, determinations, and  
32 guidelines developed under this section must be made publicly  
33 available online by the Washington State University extension energy  
34 program.

35 (26) No certification may be issued under this section after June  
36 30, 2021.

37 (27) The Washington State University extension energy program  
38 must collect a one-time fee for applications submitted under  
39 subsection (1) of this section of one hundred twenty-five dollars per  
40 applicant. The Washington State University extension energy program

1 must deposit all revenue generated by this fee into the state general  
2 fund. The Washington State University extension energy program must  
3 administer and budget for the program established in RCW 82.16.120,  
4 this section, and section 7 of this act in a manner that ensures its  
5 administrative costs through June 30, 2022, are completely met by the  
6 revenues from this fee. If the Washington State University extension  
7 energy program determines that the fee authorized in this subsection  
8 is insufficient to cover the administrative costs through June 30,  
9 2022, the Washington State University extension energy program must  
10 report to the legislature on costs incurred and fees collected and  
11 demonstrate why a different fee amount or funding mechanism should be  
12 authorized.

13 (28) The Washington State University extension energy program  
14 may, through a public process, develop any program requirements,  
15 policies, and processes necessary for the administration or  
16 implementation of this section, RCW 82.16.120, and sections 2 and 7  
17 of this act. The department is authorized, in consultation with the  
18 Washington State University extension energy program, to adopt any  
19 rules necessary for administration or implementation of the program  
20 established under this section and section 7 of this act.

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

25 (30)(a) By November 1, 2019, and in compliance with RCW  
26 43.01.036, the Washington State University extension energy program  
27 must submit a report to the legislature that includes the following:

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

31 (ii) The number of utilities that are approaching or have reached  
32 the credit limit established under RCW 82.16.130(2) or the thresholds  
33 established under section 6(13) of this act;

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

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

39 (A) An evaluation of whether or not community solar projects are  
40 being deployed in low-income and moderate-income communities, as

1 those terms are defined in RCW 43.63A.510, including a description of  
2 any barriers to project deployment in these communities;

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

6 (C) A description of any barriers to participation by nonprofits  
7 and local housing authorities in the incentive program established  
8 under this section and under section 7 of this act;

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

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

15 (b) By December 31, 2019, the legislature must review the report  
16 submitted under (a) of this subsection and determine whether the  
17 credit limit established under RCW 82.16.130(2) should be increased  
18 to two percent of a light and power business' taxable power sales  
19 generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or  
20 two hundred fifty thousand dollars, whichever is greater, in order to  
21 achieve the legislative intent under section 1 of this act.

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

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

28 (2) A community solar project must have a direct current  
29 nameplate capacity that is no more than one thousand kilowatts and  
30 must have at least ten participants or one participant for every ten  
31 kilowatts of direct current nameplate capacity, whichever is greater.  
32 A community solar project that has a direct current nameplate  
33 capacity greater than five hundred kilowatts must be subject to a  
34 standard interconnection agreement with the utility serving the situs  
35 of the community solar project. Except for community solar projects  
36 authorized under subsection (9) of this section, each participant  
37 must be a customer of the utility providing service at the situs of  
38 the community solar project.

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

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

11 (5) The administrator of a community solar project must maintain  
12 and update annually through June 30, 2030, the following information  
13 for each project it operates or administers:

14 (a) Ownership information;

15 (b) Contact information for technical management questions;

16 (c) Business address;

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

19 (e) Subscription information, including rates, fees, terms, and  
20 conditions.

21 (6) The administrator of a community solar project must provide  
22 the information required in subsection (5) of this section to the  
23 Washington State University extension energy program at the time it  
24 submits the application allowed under section 6(1) of this act.

25 (7) The administrator of a community solar project must provide  
26 each project participant with a disclosure form containing all  
27 material terms and conditions of participation in the project,  
28 including but not limited to the following:

29 (a) Plain language disclosure of the terms under which the  
30 project participant's share of any incentive payment will be  
31 calculated by the Washington State University extension energy  
32 program over the life of the contract;

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

36 (c) All recurring and nonrecurring charges;

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

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

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

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

4 (h) Any other terms and conditions of the services provided by  
5 the administrator.

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

10 (9) A public utility district that is engaged in distributing  
11 electricity to more than one retail electric customer in the state  
12 and a joint operating agency organized under chapter 43.52 RCW on or  
13 before January 1, 2017, may enter into an agreement with each other  
14 to construct and own a community solar project that is located on  
15 property owned by a joint operating agency or on property that  
16 receives electric service from a participating public utility  
17 district. Each participant of a community solar project under this  
18 subsection must be a customer of at least one of the public utility  
19 districts that is a party to the agreement with a joint operating  
20 agency to construct and own a community solar project.

21 (10) The Washington utilities and transportation commission must  
22 publish, without disclosing proprietary information, a list of the  
23 following:

24 (a) Entities other than utilities, including affiliates or  
25 subsidiaries of utilities, that organize and administer community  
26 solar projects; and

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

29 (11) If a consumer-owned utility opts to provide a community  
30 solar program or contracts with a nonutility administrator to offer a  
31 community solar program, the governing body of the consumer-owned  
32 utility must publish, without disclosing proprietary information, a  
33 list of the nonutility administrators contracted by the utility as  
34 part of its community solar program.

35 (12) Except for parties engaged in actions and transactions  
36 regulated under laws administered by other authorities and exempted  
37 under RCW 19.86.170, a violation of this section constitutes an  
38 unfair or deceptive act in trade or commerce in violation of chapter  
39 19.86 RCW, the consumer protection act. Acts in violation of this act  
40 are not reasonable in relation to the development and preservation of



1 business, and constitute matters vitally affecting the public  
2 interest for the purpose of applying the consumer protection act,  
3 chapter 19.86 RCW.

4 (13) Nothing in this section may be construed as intending to  
5 preclude persons from investing in or possessing an ownership  
6 interest in a community solar project, or from applying for and  
7 receiving federal investment tax credits.

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

10 (1) The purpose of a shared commercial solar project is to  
11 provide an entry point in solar utilization by large load customers  
12 in a manner that achieves economies of scale and maximizes system  
13 performance without limitations posed by on-site systems where sun  
14 exposure is not optimal or structural and other site deficiencies  
15 preclude solar development.

16 (2) Beginning July 1, 2017, a utility may, at its discretion,  
17 organize and administer a shared commercial solar project as provided  
18 in this section.

19 (3) A shared commercial solar project must have a direct current  
20 nameplate capacity greater than one megawatt and no more than five  
21 megawatts and must have at least five participants. To receive  
22 incentive payments under section 6 of this act, each participant must  
23 be a customer of the utility providing service at the situs of the  
24 shared commercial solar project and must be located in the state of  
25 Washington.

26 (4) The administrator of a shared commercial solar project must  
27 administer the project in a transparent manner.

28 (5) The administrator of a shared commercial solar project may  
29 establish a reasonable fee to cover costs incurred in organizing and  
30 administering the shared commercial solar project. Project  
31 participants, prior to making the commitment to participate in the  
32 project, must be given clear and conspicuous notice of the fees  
33 charged by the administrator as authorized under this subsection.

34 (6) The administrator of a shared commercial solar project must  
35 submit to the Washington State University extension energy program at  
36 the time it submits an application allowed under section 6(1) of this  
37 act project design details, including project location, output  
38 capacity, equipment list, and interconnection information.

1 (7) The administrator of a shared commercial solar project must  
2 provide each project participant with a disclosure form containing  
3 all material terms and conditions of participation in the project,  
4 including but not limited to the following:

5 (a) All recurring and nonrecurring charges;

6 (b) A description of the billing and payment procedures;

7 (c) Production projections and a description of the methodology  
8 used to develop the projections;

9 (d) An estimate of the project participant's share of any  
10 incentive payment over the life of the contract;

11 (e) A description of contract terms that relate to project  
12 underperformance;

13 (f) Contract provisions regulating the disposition or transfer of  
14 the project participant's interest in the project, including any  
15 potential costs associated with such a transfer;

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

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

19 (8) If a utility opts to contract with a nonutility administrator  
20 to offer a shared commercial solar program, the utility must publish,  
21 without disclosing proprietary information, the name of the  
22 nonutility administrator contracted by the utility as part of its  
23 shared commercial solar program.

24 (9) In order to meet the intent of this act of promoting a  
25 sustainable, local renewable energy industry, the legislature prefers  
26 award of the majority of the installation of shared commercial solar  
27 projects be given to contractors based in Washington state. In the  
28 event the majority of the installation of a shared commercial solar  
29 project is awarded to out-of-state contractors, the administrator  
30 must submit to the Washington State University extension energy  
31 program the reasons for using out-of-state contractors, the  
32 percentage of installation work performed by out-of-state  
33 contractors, and a cost comparison of the installation services  
34 performed by out-of-state contractors against the same services  
35 performed by Washington-based contractors.

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

38 (1) Any person who sells a solar module to a customer-owner, or  
39 who receives compensation from a customer-owner in exchange for

1 installing a solar module for use in a residential-scale system or  
2 commercial-scale system in Washington must provide to the customer-  
3 owner current information regarding the tax incentives available to  
4 the customer-owner under Washington law, including the scheduled  
5 expiration date of any tax incentives and the maximum period of time  
6 during which the customer-owner may benefit from any tax incentives,  
7 based on the law as it existed on the date of sale or installation of  
8 the solar module.

9 (2) The definitions in section 5 of this act apply to this  
10 section.

11 (3) For the purposes of this section, "solar module" has the same  
12 meaning as provided in RCW 82.16.110.

13 (4) The legislature finds that the practices covered by this  
14 section are matters vitally affecting the public interest for the  
15 purpose of applying the consumer protection act, chapter 19.86 RCW. A  
16 violation of this section is not reasonable in relation to the  
17 development and preservation of business and is an unfair or  
18 deceptive act or practice in the conduct of trade or commerce and an  
19 unfair method of competition. Violations of this section may be  
20 enforced by the attorney general under the consumer protection act,  
21 chapter 19.86 RCW.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 80.28  
23 RCW to read as follows:

24 The definitions in this section apply throughout this section and  
25 section 11 of this act unless the context clearly requires otherwise.

26 (1) "Community solar company" means a person, firm, or  
27 corporation, other than an electric utility or a community solar  
28 cooperative, that owns a community solar project and provides  
29 community solar project services to project participants.

30 (2) "Community solar project" means a solar energy system that  
31 has a direct current nameplate generating capacity that is no larger  
32 than one thousand kilowatts.

33 (3) "Community solar project services" means the provision of  
34 electricity generated by a community solar project, or the provision  
35 of the financial benefits associated with electricity generated by a  
36 community solar project, to multiple project participants, and may  
37 include other services associated with the use of the community solar  
38 project such as system monitoring and maintenance, warranty  
39 provisions, performance guarantees, and customer service.

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

3 (5) "Project participant" means a customer who enters into a  
4 lease, power purchase agreement, loan, or other financial agreement  
5 with a community solar company in order to obtain a beneficial  
6 interest in, other than direct ownership of, a community solar  
7 project.

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

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 80.28  
12 RCW to read as follows:

13 (1) No community solar company may engage in business in this  
14 state except in accordance with the provisions of this chapter.  
15 Engaging in business as a community solar company includes  
16 advertising, soliciting, offering, or entering into an agreement to  
17 own a community solar project and provide community solar project  
18 services to electric utility customers.

19 (2) A community solar company must register with the commission  
20 before engaging in business in this state or applying for  
21 certification from the Washington State University extension energy  
22 program under section 6(1) of this act. Registration with the  
23 commission as a community solar company must occur on an annual  
24 basis. The registration must be on a form prescribed by the  
25 commission and contain that information as the commission may by rule  
26 require, but must include at a minimum:

27 (a) The name and address of the community solar company;

28 (b) The name and address of the community solar company's  
29 registered agent, if any;

30 (c) The name, address, and title of each officer or director;

31 (d) The community solar company's most current balance sheet;

32 (e) The community solar company's latest annual report, if any;

33 (f) A description of the services the community solar company  
34 offers or intends to offer, including financing models; and

35 (g) Disclosure of any pending litigation against it.

36 (3) As a precondition to registration, the commission may require  
37 the procurement of a performance bond or other mechanism sufficient  
38 to cover any advances or deposits the community solar company may

1 collect from project participants or order that the advances or  
2 deposits be held in escrow or trust.

3 (4) The commission may deny registration to any community solar  
4 company that:

5 (a) Does not provide the information required by this section;

6 (b) Fails to provide a performance bond or other mechanism, if  
7 required;

8 (c) Does not possess adequate financial resources to provide the  
9 proposed service; or

10 (d) Does not possess adequate technical competency to provide the  
11 proposed service.

12 (5) The commission must take action to approve or issue a notice  
13 of hearing concerning any application for registration within thirty  
14 days after receiving the application. The commission may approve an  
15 application with or without a hearing. The commission may deny an  
16 application after a hearing.

17 (6) The commission may charge a community solar company an annual  
18 application fee to recover the cost of processing applications for  
19 registration under this section.

20 (7) The commission may adopt rules that describe the manner by  
21 which it will register a community solar company, ensure that the  
22 terms and conditions of community solar projects or community solar  
23 project services comply with the requirements of this act, establish  
24 the community solar company's responsibilities for responding to  
25 customer complaints and disputes, and adopt annual reporting  
26 requirements. In addition to the application fee authorized under  
27 subsection (6) of this section, the commission may adopt regulatory  
28 fees applicable to community solar companies pursuant to RCW  
29 80.04.080, 80.24.010, and 80.24.020. Such fees may not exceed the  
30 cost of ensuring compliance with this chapter.

31 (8) The commission may suspend or revoke a registration upon  
32 complaint by any interested party, or upon the commission's own  
33 motion after notice and opportunity for hearing, when it finds that a  
34 registered community solar company or its agent has violated this  
35 chapter or the rules of the commission, or that the community solar  
36 company or its agent has been found by a court or governmental agency  
37 to have violated the laws of a state or the United States.

38 (9) For the purpose of ensuring compliance with this chapter, the  
39 commission may issue penalties against community solar companies for

1 violations of this chapter as provided for public service companies  
2 pursuant to chapter 80.04 RCW.

3 (10) Upon request of the commission, a community solar company  
4 registered under this section must provide information about its  
5 community solar projects or community solar project services.

6 (11) A violation of this section constitutes an unfair or  
7 deceptive act in trade or commerce in violation of chapter 19.86 RCW,  
8 the consumer protection act. Acts in violation of this act are not  
9 reasonable in relation to the development and preservation of  
10 business, and constitute matters vitally affecting the public  
11 interest for the purpose of applying the consumer protection act,  
12 chapter 19.86 RCW.

13 (12) For the purposes of RCW 19.86.170, actions or transactions  
14 of a community solar company may not be deemed otherwise permitted,  
15 prohibited, or regulated by the commission.

16 NEW SECTION. **Sec. 12.** (1) **Findings.** The legislature finds that  
17 a convenient, safe, and environmentally sound system for the  
18 recycling of photovoltaic modules, minimization of hazardous waste,  
19 and recovery of commercially valuable materials must be established.  
20 The legislature further finds that the responsibility for this system  
21 must be shared among all stakeholders, with manufacturers financing  
22 the takeback and recycling system.

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

25 (a) "Consumer electronic device" means any device containing an  
26 electronic circuit board that is intended for everyday use by  
27 individuals, such as a watch or calculator.

28 (b) "Department" means the department of ecology.

29 (c) "Manufacturer" means any person in business or no longer in  
30 business but having a successor in interest who, irrespective of the  
31 selling technique used, including by means of distance or remote  
32 sale:

33 (i) Manufactures or has manufactured a photovoltaic module under  
34 its own brand names for sale in or into this state;

35 (ii) Assembles or has assembled a photovoltaic module that uses  
36 parts manufactured by others for sale in or into this state under the  
37 assembler's brand names;

38 (iii) Resells or has resold in or into this state under its own  
39 brand names a photovoltaic module produced by other suppliers,

1 including retail establishments that sell photovoltaic modules under  
2 their own brand names;

3 (iv) Manufactures or has manufactured a cobranded photovoltaic  
4 module product for sale in or into this state that carries the name  
5 of both the manufacturer and a retailer;

6 (v) Imports or has imported a photovoltaic module into the United  
7 States that is sold in or into this state. However, if the imported  
8 photovoltaic module is manufactured by any person with a presence in  
9 the United States meeting the criteria of manufacturer under (a)  
10 through (d) of this subsection, that person is the manufacturer;

11 (vi) Sells at retail a photovoltaic module acquired from an  
12 importer that is the manufacturer and elects to register as the  
13 manufacturer for those products; or

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

17 (d) "Photovoltaic module" means the smallest nondivisible,  
18 environmentally protected assembly of photovoltaic cells or other  
19 photovoltaic collector technology and ancillary parts intended to  
20 generate electrical power under sunlight, except that "photovoltaic  
21 module" does not include a photovoltaic cell that is part of a  
22 consumer electronic device for which it provides electricity needed  
23 to make the consumer electronic device function. "Photovoltaic  
24 module" includes but is not limited to interconnections, terminals,  
25 and protective devices such as diodes that:

26 (i) Are installed on, connected to, or integral with buildings;  
27 or

28 (ii) Are used as components of freestanding, off-grid, power  
29 generation systems, such as for powering water pumping stations,  
30 electric vehicle charging stations, fencing, street and signage  
31 lights, and other commercial or agricultural purposes.

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

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

1 (g) "Stewardship plan" means the plan developed by a manufacturer  
2 or its designated stewardship organization for a self-directed  
3 stewardship program.

4 (h) "Stewardship program" means the activities conducted by a  
5 manufacturer or a stewardship organization to fulfill the  
6 requirements of this chapter and implement the activities described  
7 in its stewardship plan.

8 (3) **Program guidance, review, and approval.** The department must  
9 develop guidance for a photovoltaic module stewardship and takeback  
10 program to guide manufacturers in preparing and implementing a self-  
11 directed program to ensure the convenient, safe, and environmentally  
12 sound takeback and recycling of photovoltaic modules and their  
13 components and materials. By January 1, 2018, the department must  
14 establish a process to develop guidance for photovoltaic module  
15 stewardship plans by working with manufacturers, stewardship  
16 organizations, and other stakeholders on the content, review, and  
17 approval of stewardship plans. The department's process must be fully  
18 implemented and stewardship plan guidance completed by July 1, 2019.

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

28 (5) **Stewardship plans.** Each manufacturer must prepare and submit  
29 a stewardship plan to the department by the later of January 1, 2020,  
30 or within thirty days of its first sale of a photovoltaic module in  
31 or into the state.

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

33 (i) Describe how manufacturers will finance the takeback and  
34 recycling system, and include an adequate funding mechanism to  
35 finance the costs of collection, management, and recycling of  
36 photovoltaic modules and residuals sold in or into the state by the  
37 manufacturer with a mechanism that ensures that photovoltaic modules  
38 can be delivered to takeback locations without cost to the last owner  
39 or holder;



1 (ii) Accept all photovoltaic modules sold in or into the state  
2 after July 1, 2017;

3 (iii) Describe how the program will minimize the release of  
4 hazardous substances into the environment and maximize the recovery  
5 of other components, including rare earth elements and commercially  
6 valuable materials;

7 (iv) Provide for takeback of photovoltaic modules at locations  
8 that are within the region of the state in which the photovoltaic  
9 modules were used and are as convenient as reasonably practicable,  
10 and if no such location within the region of the state exists,  
11 include an explanation for the lack of such location;

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

18 (vi) Establish performance goals, including a goal for the rate  
19 of combined reuse and recycling of collected photovoltaic modules as  
20 a percentage of the total weight of photovoltaic modules collected,  
21 which rate must be no less than eighty-five percent.

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

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

28 (6) **Plan approval.** The department must approve a stewardship plan  
29 if it determines the plan addresses each element outlined in the  
30 department's guidance.

31 (7) **Annual report.** (a) Beginning April 1, 2022, and by April 1st  
32 in each subsequent year, a manufacturer, or its designated  
33 stewardship organization, must provide to the department a report for  
34 the previous calendar year that documents implementation of the plan  
35 and assesses achievement of the performance goals established in  
36 subsection (5)(a)(vi) of this section.

37 (b) The report may include any recommendations to the department  
38 or the legislature on modifications to the program that would enhance  
39 the effectiveness of the program, including management of program

1 costs and mitigation of environmental impacts of photovoltaic  
2 modules.

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

5 (8) **Enforcement.** Beginning January 1, 2021, no manufacturer may  
6 sell or offer for sale a photovoltaic module in or into the state  
7 unless the manufacturer has submitted to the department a stewardship  
8 plan and received plan approval. The department must send a written  
9 warning to a manufacturer that is not participating in a plan. The  
10 written warning must inform the manufacturer that it must submit a  
11 plan or participate in a plan within thirty days of the notice. The  
12 department may assess a penalty of up to ten thousand dollars for  
13 each sale of a photovoltaic module in or into the state that occurs  
14 after the initial written warning. A manufacturer may appeal a  
15 penalty issued under this section to the superior court of Thurston  
16 county within one hundred eighty days of receipt of the notice.

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

30 (10) **Account.** The photovoltaic module recycling account is  
31 created in the custody of the state treasurer. All fees collected  
32 from manufacturers under this chapter must be deposited in the  
33 account. Expenditures from the account may be used only for  
34 administering this chapter. Only the director of the department or  
35 the director's designee may authorize expenditures from the account.  
36 The account is subject to the allotment procedures under chapter  
37 43.88 RCW, but an appropriation is not required for expenditures.  
38 Funds in the account may not be diverted for any purpose or activity  
39 other than those specified in this section.

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

4 (12) **National program.** In lieu of preparing a stewardship plan  
5 and as provided by subsection (5) of this section, a manufacturer may  
6 participate in a national program for the convenient, safe, and  
7 environmentally sound takeback and recycling of photovoltaic modules  
8 and their components and materials, if substantially equivalent to  
9 the intent of the state program. The department may determine  
10 substantial equivalence if it determines that the national program  
11 adequately addresses and fulfills each of the elements of a  
12 stewardship plan outlined in subsection (5)(a) of this section and  
13 includes an enforcement mechanism reasonably calculated to ensure a  
14 manufacturer's compliance with the national program. Upon issuing a  
15 determination of substantial equivalence, the department must notify  
16 affected stakeholders including the manufacturer. If the national  
17 program is discontinued or the department determines the national  
18 program is no longer substantially equivalent to the state program in  
19 Washington, the department must notify the manufacturer and the  
20 manufacturer must provide a stewardship plan as described in  
21 subsection (5)(a) of this section to the department for approval  
22 within thirty days of notification.

23 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.180  
24 RCW to read as follows:

25 (1) It is the intent of the legislature to investigate methods by  
26 which the state may establish or facilitate financing models that  
27 allow electric utilities in the state to maximize federal tax  
28 incentives and monetize the depreciation of renewable energy systems  
29 and other distributed energy assets, with the goal of providing  
30 improved access to the benefits of these assets to low and moderate  
31 income households as well as broad system benefits to utility  
32 ratepayers and state taxpayers.

33 (2) By December 31, 2017, the commission must prepare and submit  
34 to the appropriate committees of the legislature a report that  
35 assesses financing tools or models for the aggregation, by public or  
36 private entities, of federal tax incentives and other financial  
37 benefits accruing from the installation, ownership, and operation of  
38 renewable energy systems and other distributed energy resources. The  
39 report must:

1 (a) Assess the legal, financial, and economic feasibility of one  
2 or more financing tools or models for the aggregation of federal tax  
3 incentives and other financial benefits accruing from the  
4 installation, ownership, and operation of renewable energy systems  
5 and other distributed energy resources;

6 (b) Consider the state and federal legal aspects of such a  
7 financing tool or model, including considerations of how to structure  
8 the role of the state or any subdivision of the state in a manner  
9 that is consistent with the Constitution of the state of Washington;  
10 and

11 (c) Describe any legislation that may be necessary to facilitate,  
12 implement, or create incentives for the private sector to implement  
13 such a financing tool or model within the state.

14 (3) Beginning July 1, 2018, the commission may implement a  
15 financing tool or model for the aggregation, by public or private  
16 entities, of federal tax incentives and other financial benefits  
17 accruing from the installation, ownership, and operation of renewable  
18 energy systems and other distributed energy resources if the  
19 commission determines that it is legally, financially, and  
20 economically feasible and that it would further the public policy  
21 goals set forth in subsection (1) of this section.

22 **Sec. 14.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each  
23 amended to read as follows:

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

35 (b) Beginning on July 1, 2009, through June 30, 2011, the tax  
36 levied by RCW 82.08.020 does not apply to the sale of machinery and  
37 equipment described in (a) of this subsection that are used directly  
38 in generating electricity or to sales of or charges made for labor

1 and services rendered in respect to installing such machinery and  
2 equipment.

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

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

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

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

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

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

32 (ii) "Machinery and equipment" does not include: (A) Hand-powered  
33 tools; (B) property with a useful life of less than one year; (C)  
34 repair parts required to restore machinery and equipment to normal  
35 working order; (D) replacement parts that do not increase  
36 productivity, improve efficiency, or extend the useful life of  
37 machinery and equipment; (E) buildings; or (F) building fixtures that  
38 are not integral and necessary to the generation of electricity that  
39 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 September 30,  
37 2017, as it applies to: (a) Machinery and equipment that is used  
38 directly in the generation of electricity using solar energy and  
39 capable of generating no more than five hundred kilowatts of

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

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

4 **Sec. 15.** 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 September 30, 2017.

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

14 **Sec. 16.** 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  
28 September 30, 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 December 31, 2019.

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

35 **Sec. 17.** 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 September 30, 2017;  
11 and

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

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

18 NEW SECTION. Sec. 18. Section 12 of this act constitutes a new  
19 chapter in Title 70 RCW.

20 NEW SECTION. Sec. 19. This act is necessary for the immediate  
21 preservation of the public peace, health, or safety, or support of  
22 the state government and its existing public institutions, and takes  
23 effect immediately.

--- END ---