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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2346

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State of Washington

64th Legislature

2016 Regular Session

By House Appropriations (originally sponsored by Representatives Morris, Smith, Haler, Rossetti, Tarleton, Hayes, and Peterson)

READ FIRST TIME 02/09/16.

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 a new chapter to Title 70 RCW; creating a new  
7 section; and declaring an emergency.

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

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

1 to promote installation of systems through 2020, at which point the  
2 legislature expects that the state's renewable energy industry will  
3 be capable of sustained growth and vitality without the cost recovery  
4 incentive.

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

7 (1) This section is the tax preference performance statement for  
8 the tax preference and incentives created under RCW 82.16.130 and  
9 section 7 of this act. This performance statement is only intended to  
10 be used for subsequent evaluation of the tax preference and  
11 incentives. It is not intended to create a private right of action by  
12 any party or be used to determine eligibility for preferential tax  
13 treatment.

14 (2) The legislature categorizes the tax preference created under  
15 RCW 82.16.130 and incentive payments authorized in section 7 of this  
16 act as intended to:

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

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

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

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

24 (b) Promote economic development through increasing and improving  
25 investment in, development of, and use of clean energy technology in  
26 Washington; and

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

29 (4) It is the legislature's intent to provide the incentives in  
30 section 7 of this act and RCW 82.16.130 in order to ensure the  
31 sustainable job growth and vitality of the state's renewable energy  
32 sector. The purpose of the incentive is to reduce the costs  
33 associated with installing and operating solar energy systems by  
34 persons or entities receiving the incentive.

35 (5) As part of its 2019 tax preference reviews conducted under  
36 chapter 43.136 RCW, the joint legislative audit and review committee  
37 must review the tax preferences and incentives in section 7 of this  
38 act and RCW 82.16.130. The legislature intends for the legislative

1 auditor to determine that the incentive has achieved its desired  
2 outcomes if the following objectives are achieved:

3 (a) Achievement of two hundred megawatts of solar photovoltaic  
4 capacity in Washington by 2020; and

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

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

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

13 (6) In order to obtain the data necessary to perform the review,  
14 the joint legislative audit and review committee may refer to data  
15 collected by the Washington State University extension energy program  
16 and may obtain employment data from the employment security  
17 department.

18 (7) The Washington State University extension energy program  
19 shall collect, through the application process, data from persons  
20 claiming the tax credit under RCW 82.16.130 and persons receiving the  
21 incentive payments created in section 7 of this act, as necessary,  
22 and may collect data from other interested persons as necessary to  
23 report on the performance of this act.

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

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

32 (1)(a) Any individual, business, local governmental entity, not  
33 in the light and power business or in the gas distribution business,  
34 or a participant in a community solar project may apply to the light  
35 and power business serving the situs of the system, each fiscal year  
36 beginning on July 1, 2005, and ending June 30, 2016, for an  
37 investment cost recovery incentive for each kilowatt-hour from a  
38 customer-generated electricity renewable energy system.

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

4 (c) In the case of a community solar project as defined in RCW  
5 82.16.110(2)(a)(iii), the company owning the community solar project  
6 must apply for the investment cost recovery incentive on behalf of  
7 each member of the company.

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

16 (b) No person may submit a certification to the department under  
17 (a) of this subsection after May 31, 2016.

18 (c) The certification must include:

19 (i) The name and address of the applicant and location of the  
20 renewable energy system.

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

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

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

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

32 (A) Any solar inverters and solar modules manufactured in  
33 Washington state;

34 (B) A wind generator powered by blades manufactured in Washington  
35 state;

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

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

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

39 (F) Solar or wind equipment manufactured outside of Washington  
40 state;

1 (iv) That the electricity can be transformed or transmitted for  
2 entry into or operation in parallel with electricity transmission and  
3 distribution systems; and

4 (v) The date that the renewable energy system received its final  
5 electrical (~~(permit)~~) inspection from the applicable local  
6 jurisdiction.

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

16 (3)(a) By August 1st of each year through August 1, 2016, the  
17 application for the incentive must be made to the light and power  
18 business serving the situs of the system by certification in a form  
19 and manner prescribed by the department that includes, but is not  
20 limited to, the following information:

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

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

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

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

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

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

36 (b) Within sixty days of receipt of the incentive certification  
37 the light and power business serving the situs of the system must  
38 notify the applicant in writing whether the incentive payment will be  
39 authorized or denied. The business may consult with the climate and  
40 rural energy development center to determine eligibility for the

1 incentive payment. Incentive certifications and the information  
2 contained therein are not confidential tax information under RCW  
3 82.32.330 and are subject to disclosure (~~under RCW~~  
4 ~~82.32.330(3)(1)~~)).

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

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

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

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

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

38 (c) For customer-generated electricity produced using an  
39 anaerobic digester, or by other solar equipment or using a wind

1 generator equipped with blades manufactured in Washington state, one;  
2 and

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

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

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

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

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

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

26 ~~(6) ((If requests for the investment cost recovery incentive~~  
27 ~~exceed the amount of funds available for credit to the participating~~  
28 ~~light and power business, the incentive payments must be reduced~~  
29 ~~proportionately.~~

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

35 ~~((8))~~ (7) The environmental attributes of the renewable energy  
36 system belong to the applicant, and do not transfer to the state or  
37 the light and power business upon receipt of the investment cost  
38 recovery incentive.

1        ~~((9))~~ (8) No incentive may be paid under this section for  
2 kilowatt-hours generated before July 1, 2005, or after June 30,  
3 ~~((2020))~~ 2016.

4        (9) Beginning July 1, 2016, program management, technical review,  
5 and tracking responsibilities of the department under this section  
6 are transferred to the Washington State University extension energy  
7 program. At the earliest date practicable and no later than June 30,  
8 2016, the department must transfer all records necessary for the  
9 administration of the remaining incentive payments due under this  
10 section to the Washington State University extension energy program.

11        NEW SECTION.    **Sec. 4.** A new section is added to chapter 82.16  
12 RCW to read as follows:

13        (1) The legislature intends to allow participants in the  
14 renewable energy investment cost recovery program under RCW 82.16.120  
15 to continue to receive payments for electricity produced through June  
16 2020, at the rates they anticipated when they first received notice  
17 of eligibility from the department under RCW 82.16.120, unless and  
18 until requests for the incentive under RCW 82.16.120, this section,  
19 and section 7 of this act cumulatively exceed the amount of funds  
20 available for credit under RCW 82.16.130, as amended by this act.

21        (2) A person or community solar project administrator who has,  
22 before June 1, 2016, submitted a complete certification to the  
23 department under RCW 82.16.120(2) may apply to the Washington State  
24 University extension energy program to receive a certification  
25 authorizing the utility serving the situs of the renewable energy  
26 system to remit an investment cost recovery incentive for each  
27 kilowatt-hour generated by the renewable energy system beginning July  
28 1, 2016, and ending June 30, 2020.

29        (a) The person or community solar project administrator must  
30 submit the application to the Washington State University extension  
31 energy program before July 15, 2016, or within fifteen days of  
32 receiving a notice of eligibility from the department under RCW  
33 82.16.120, whichever is later.

34        (b) The Washington State University extension energy program must  
35 review the data provided by the department under RCW 82.16.120(2) and  
36 the application requirements under section 7(7) of this act and  
37 establish an application process by which to collect system operation  
38 data including global positioning system coordinates, tilt, shading,  
39 and azimuth, and any additional information that it requires in order



1 to issue the certification under this section. The Washington State  
2 University extension energy program must notify participants that  
3 providing such additional information is a condition of retaining  
4 certification to receive any payments otherwise due from utilities  
5 under this section beginning with the program year ending June 30,  
6 2017.

7 (3) The Washington State University extension energy program must  
8 assess a fee of up to seventy-five dollars per applicant under this  
9 section. The fee must be deducted by each participating utility from  
10 the incentive payments due to such customers for the program year  
11 ending June 30, 2016, and must be remitted by the utility to the  
12 Washington State University extension energy program by September 30,  
13 2016. The Washington State University extension energy program must  
14 deposit all revenue generated by this fee into the state general  
15 fund.

16 **Sec. 5.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to  
17 read as follows:

18 (1) A light and power business shall be allowed a credit against  
19 taxes due under this chapter in an amount equal to (~~investment cost~~  
20 ~~recovery~~) incentive payments made in any fiscal year under RCW  
21 82.16.120 and section 7 of this act.

22 (2) The credits (~~shall~~) must be taken in a form and manner as  
23 required by the department. The credit under this section for the  
24 fiscal year may not exceed (~~one-half~~) two percent of the  
25 businesses' taxable power sales generated in calendar year 2014 and  
26 due under RCW 82.16.020(1)(b) or (~~one~~) two hundred fifty thousand  
27 dollars, whichever is greater. Incentive payments to participants in  
28 a (~~utility-owned~~) community solar project (~~as defined in RCW~~  
29 82.16.110(2)(a)(ii)) may only account for up to twenty-five percent  
30 of the total allowable credit. Incentive payments (~~to participants~~  
31 in a company-owned community solar project as defined in RCW  
32 82.16.110(2)(a)(iii) may only account for up to five percent of the  
33 total)) for electricity produced by commercial-scale systems may only  
34 account for up to twenty-five percent of the allowable credit.

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

1       ~~((+2))~~ (4) For any business that has claimed credit for amounts  
2 that exceed the correct amount of the incentive payable under RCW  
3 82.16.120, the amount of tax against which credit was claimed for the  
4 excess payments shall be immediately due and payable. The department  
5 may deduct amounts due from future credits claimed by the business.

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

13       ~~((+3))~~ (b) A business is not liable for excess payments made in  
14 reliance on amounts reported by the Washington State University  
15 extension energy program as due and payable as provided under section  
16 7(19) of this act, if such amounts are later found to be abnormal or  
17 inaccurate due to no fault of the business.

18       (5) The amount of credit taken under this section is not  
19 confidential taxpayer information under RCW 82.32.330 and is subject  
20 to disclosure.

21       (6) The right to earn tax credits under this section expires June  
22 30, (~~2020~~) 2030. Credits may not be claimed after June 30, (~~2021~~)  
23 2031.

24       NEW SECTION. Sec. 6. 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 7 and 8 of this act unless the context clearly requires  
28 otherwise.

29       (1) "Certification" means the authorization issued by the  
30 Washington State University extension energy program establishing a  
31 person's eligibility to receive annual incentive payments from the  
32 person's utility for a term of ten years.

33       (2) "Commercial-scale system" means a renewable energy system or  
34 systems other than a community solar project with a combined  
35 nameplate capacity greater than twelve kilowatts that meets the  
36 applicable system eligibility requirements established in section 7  
37 of this act.

38       (3) "Community solar project" means a solar energy system that  
39 has a direct current nameplate generating capacity that is no larger

1 than five hundred kilowatts and meets the applicable eligibility  
2 requirements established in sections 7 and 8 of this act.

3 (4) "Community solar program" means a program organized and  
4 administered by a utility or a nonprofit organization to develop  
5 community solar projects pursuant to section 8 of this act.

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

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

12 (7) "Nonprofit organization" means an entity or organization that  
13 is exempt from taxation under section 501(c)(3) of the internal  
14 revenue code.

15 (8) "Person" means any individual, firm, partnership,  
16 corporation, company, association, agency, or any other legal entity.

17 (9) "Renewable energy system" means a solar energy system,  
18 including a community solar project, an anaerobic digester as defined  
19 in RCW 82.08.900, or a wind generator used for producing electricity.

20 (10) "Residential-scale system" means a renewable energy system  
21 or systems located at a single situs with combined nameplate capacity  
22 of twelve kilowatts or less that meets the applicable system  
23 eligibility requirements established in section 7 of this act.

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

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

28 (1) Beginning July 1, 2016, the following persons may apply to  
29 the Washington State University extension energy program to receive a  
30 certification authorizing the utility serving the situs of a  
31 renewable energy system in the state of Washington to remit an annual  
32 production incentive for each kilowatt-hour of alternating current  
33 electricity generated by the renewable energy system:

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

36 (b) The nonprofit organization or utility that administers a  
37 community solar project meeting the eligibility requirements outlined  
38 in section 8 of this act and applies for certification on behalf of  
39 each of the project participants.

1 (2) No person is eligible to receive incentive payments provided  
2 under subsection (1)(a) of this section of more than twenty-five  
3 thousand dollars per year.

4 (3)(a) No new certification may be issued under this section for  
5 a renewable energy system that was certified under RCW 82.16.120 and  
6 submitted a request for or received an annual incentive payment, or  
7 for a renewable energy system served by a utility that has elected  
8 not to participate in the incentive program, as provided in  
9 subsection (4) of this section.

10 (b) No new certification may be issued under this section for an  
11 additional system, either residential-scale or commercial-scale, if a  
12 residential-scale or commercial-scale system at the same situs or at  
13 the same billing meter has already been certified under this section.  
14 Instead, an applicant may seek recertification of an expanded system,  
15 as provided in (c) of this subsection.

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

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

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

29 (b) The utility may terminate its voluntary participation in the  
30 production incentive program by providing notice in writing to the  
31 Washington State University extension energy program to cease issuing  
32 new certifications for renewable energy systems that would be served  
33 by that utility.

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

39 (d) Upon receiving a utility's notice of termination of  
40 participation in the incentive program, the Washington State

1 University extension energy program must report on its web site that  
2 customers of that utility are no longer eligible to receive new  
3 certifications under the program.

4 (e) A utility's termination of participation does not affect the  
5 utility's obligation to continue to make annual incentive payments  
6 for electricity generated by systems that were certified prior to the  
7 effective date of the notice. The Washington State University  
8 extension energy program must continue to process and issue  
9 certifications for renewable energy systems that were received by the  
10 Washington State University extension energy program before the  
11 effective date of the notice of termination.

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

15 (5)(a) The Washington State University extension energy program  
16 may certify a renewable energy system that is connected to equipment  
17 capable of measuring the electricity production of the system and  
18 interconnecting with the utility's system in a manner that allows the  
19 utility, or the customer at the utility's option, to measure and  
20 report to the Washington State University extension energy program  
21 the total amount of electricity produced by the renewable energy  
22 system.

23 (b) If the utility opts to require the customer to report  
24 electricity production data to the Washington State University  
25 extension energy program or opts to provide the report by mail rather  
26 than in an electronic format, the utility must negotiate with the  
27 Washington State University extension energy program a fee-for-  
28 service arrangement that covers the program's costs of obtaining the  
29 electricity production data and incorporating it into an electronic  
30 format. The Washington State University extension energy program must  
31 deposit all revenue generated by this fee into the state general  
32 fund. This fee-for-service arrangement is also applicable to a  
33 utility's exercise of the option of requiring customer reporting or  
34 by mail reporting, described in subsection (18) of this section.

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

38 (a) For community solar projects, five thousand dollars per  
39 project participant;

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

1 (c) For commercial-scale systems, twenty-five thousand dollars.

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

5 (a) An affidavit that the applicant has not previously received a  
6 notice of eligibility from the department under RCW 82.16.120  
7 entitling the applicant to receive annual incentive payments for  
8 electricity generated by the renewable energy system at the same  
9 meter location;

10 (b) System operation data including global positioning system  
11 coordinates, tilt, shading, and azimuth;

12 (c) Any other information the Washington State University  
13 extension energy program deems necessary in determining eligibility  
14 and incentive levels, administering the program, tracking progress  
15 toward achieving the limits on program participation established in  
16 RCW 82.16.130, or facilitating the review of the performance of the  
17 tax preferences by the joint legislative audit and review committee,  
18 as described in section 2 of this act; and

19 (d)(i) Except as provided in (d)(ii) of this subsection (7), the  
20 date that the renewable energy system received its final electrical  
21 inspection from the applicable local jurisdiction, as well as a copy  
22 of the permit or, if the permit is available online, the permit  
23 number.

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

33 (8) No incentive payments may be authorized or accrued until the  
34 final electrical inspection and executed interconnection agreement  
35 are submitted to the Washington State University extension energy  
36 program.

37 (9) Within thirty days of receipt of the application for  
38 certification, the Washington State University extension energy  
39 program must notify the applicant and, except when a utility is the  
40 applicant, the utility serving the situs of the system, by mail or

1 electronically, whether certification has been granted. The  
2 certification notice must state the rate to be paid per kilowatt-hour  
3 of electricity generated by the renewable energy system, as provided  
4 in subsection (12) of this section, subject to any applicable cap on  
5 total annual payment provided in subsection (6) of this section.

6 (10) Certification is valid for ten years and may not be  
7 retroactively changed except to correct later discovered errors that  
8 were made during the original application or certification process.

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

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

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

17 (12) The Washington State University extension energy program  
18 must determine the total incentive rate for a new renewable energy  
19 system certification by adding to the base rate any applicable made-  
20 in-Washington bonus rate. A made-in-Washington bonus rate is provided  
21 for a renewable energy system or a community solar project with solar  
22 modules made in Washington or with a wind turbine or tower that is  
23 made in Washington. Both the base rates and bonus rate vary,  
24 depending on the fiscal year in which the system is certified and the  
25 type of renewable energy system being certified, as provided in the  
26 following table:

27 Fiscal year	Base rate -	Base rate -	Base rate -	Made in
28 of system	residential-scale	commercial-scale	community	Washington
29 certification			solar	bonus
30 2017	\$0.13	\$0.08	\$0.13	\$0.05
31 2018	\$0.11	\$0.06	\$0.10	\$0.05
32 2019	\$0.09	\$0.04	\$0.07	\$0.04
33 2020	\$0.07	\$0.02	\$0.05	\$0.04

34 Certification of a renewable energy system entitles the recipient  
35 to receive incentive payments for electricity generated for a period  
36 of ten years from the date the system commences operation or the date  
37 the system is certified, whichever date is later. For purposes of  
38 this section, the Washington State University extension energy

1 program must define when a renewable energy system commences  
2 operation and provide notice of such date to the recipient and the  
3 utility serving the situs of the system.

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

6 (a) For community solar projects in any fiscal year that twenty-  
7 five percent of available funds for credit that year under RCW  
8 82.16.130 have been allocated to community solar projects; and

9 (b) For any additional renewable energy system served by a  
10 utility, if certification is likely to result in incentive payments  
11 by that utility exceeding the utility's available funds for credit  
12 under RCW 82.16.130, taking into consideration funds allocated for  
13 participants under RCW 82.16.120 and section 4 of this act.

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

23 (15) In order to begin to receive annual incentive payments, a  
24 person who has been issued a certification for the incentive as  
25 provided in subsection (9) of this section must submit the  
26 certification to the utility serving the situs of the system and must  
27 obtain an executed interconnection agreement with the utility.

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

39 (17) The manufacturer of a renewable energy system component  
40 subject to a bonus rate under subsection (12) of this section may



1 apply to the Washington State University extension energy program to  
2 receive a determination of eligibility for such bonus rates. The  
3 Washington State University extension energy program must publish a  
4 list of components that have been certified as eligible for such  
5 bonus rates. The Washington State University extension energy program  
6 may assess an equipment certification fee to recover its costs. The  
7 Washington State University extension energy program must deposit all  
8 revenue generated by this fee into the state general fund.

9 (18) Annually, the utility, or the customer at the utility's  
10 option, must report to the Washington State University extension  
11 energy program, by mail or electronically, the amount of gross  
12 kilowatt-hours generated by each renewable energy system since the  
13 prior annual report.

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

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

30 (20)(a) The utility must issue the incentive payment within  
31 thirty days of receipt of the information required under subsection  
32 (19)(a) of this section from the Washington State University  
33 extension energy program. The utility must resume the incentive  
34 payments withheld under subsection (19)(b) of this section within  
35 thirty days of receiving notice from the Washington State University  
36 extension energy program that the claim has been demonstrated  
37 accurate and valid and payment should be resumed.

38 (b) A utility is not liable for incentive payments to a customer-  
39 owner if the utility has disconnected the customer due to a violation

1 of a customer service agreement, such as nonpayment of the customer's  
2 bill, or a violation of an interconnection agreement.

3 (21) Beginning January 1, 2017, the Washington State University  
4 extension energy program must post on its web site and update at  
5 least monthly a report, by utility, of:

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

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

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

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

28 (24) All lists, technical specifications, determinations, and  
29 guidelines developed under this section must be made publicly  
30 available online by the Washington State University extension energy  
31 program.

32 (25) No certification may be issued under this section after June  
33 30, 2020.

34 (26) The Washington State University extension energy program  
35 must establish a one-time fee for applications under this section not  
36 to exceed seventy-five dollars per applicant. The Washington State  
37 University extension energy program must deposit all revenue  
38 generated by this fee into the state general fund. The Washington  
39 State University extension energy program must administer and budget  
40 for the program established in RCW 82.16.120, this section, and

1 sections 4 and 8 of this act in a manner that ensures its  
2 administrative costs through June 30, 2021, are completely met by the  
3 revenues from this fee. If the Washington State University extension  
4 energy program determines that the fee authorized in this subsection  
5 is insufficient to cover the administrative costs through June 30,  
6 2021, the Washington State University extension energy program must  
7 report to the legislature on costs incurred and fees collected and  
8 demonstrate why a different fee amount or funding mechanism should be  
9 authorized.

10 (27) The Washington State University extension energy program  
11 may, through a public process, develop any program requirements and  
12 policies necessary for the administration of this section, RCW  
13 82.16.120, and sections 2, 6, and 8 of this act. The department is  
14 authorized, in consultation with the Washington State University  
15 extension energy program, to adopt any rules necessary for  
16 administration of the program.

17 (28) Applications, certifications, requests for incentive  
18 payments under this section, and the information contained therein  
19 are not deemed tax information under RCW 82.32.330 and are subject to  
20 disclosure.

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

23 (1) The purpose of the community solar project is to facilitate  
24 broad, equitable community investment in and access to solar power.  
25 Beginning July 1, 2016, a utility or nonprofit organization may  
26 organize and administer a community solar project as provided in this  
27 section.

28 (2) A community solar project must have a direct current  
29 nameplate capacity that is no more than five hundred kilowatts and  
30 must have at least ten participants. Except for community solar  
31 projects authorized under subsection (5) of this section, each  
32 participant must be a customer of the utility providing service at  
33 the situs of the community solar project.

34 (3) A utility or nonprofit administrator of a community solar  
35 project must administer the project in a transparent manner that  
36 allows for fair and nondiscriminatory opportunity for participation  
37 by utility customers.

38 (4) The utility or nonprofit administrator of a community solar  
39 project may establish a reasonable fee to cover costs incurred in

1 organizing and administering the community solar project. Project  
2 participants, prior to making the commitment to participate in the  
3 project, must be given clear and conspicuous notice of the portion of  
4 the incentive payment that will be used for this purpose.

5 (5) A public utility district that is engaged in distributing  
6 electricity to more than one retail electric customer in the state  
7 and a joint operating agency organized under chapter 43.52 RCW on or  
8 before January 1, 2016, may enter into an agreement with each other  
9 to construct and own a community solar project that is located on  
10 property owned by a joint operating agency or on property that  
11 receives electric service from a participating public utility  
12 district. Each participant of a community solar project under this  
13 subsection must be a customer of at least one of the public utility  
14 districts that is a party to the agreement with a joint operating  
15 agency to construct and own a community solar project.

16 NEW SECTION. **Sec. 9.** (1) **Findings.** The legislature finds that a  
17 convenient, safe, and environmentally sound system for the recycling  
18 of solar modules, minimization of hazardous waste, and recovery of  
19 commercially valuable materials must be established. The legislature  
20 further finds that the responsibility for this system must be shared  
21 among all stakeholders, with manufacturers financing the takeback and  
22 recycling system.

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

25 (a) "Department" means the department of ecology.

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

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

32 (ii) Assembles or has assembled a solar module that uses parts  
33 manufactured by others for sale in or into this state under the  
34 assembler's brand names;

35 (iii) Resells or has resold in or into this state under its own  
36 brand names a solar module produced by other suppliers, including  
37 retail establishments that sell solar modules under their own brand  
38 names;

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

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

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

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

15 (c) "Rare earth element" means lanthanum, cerium, praseodymium,  
16 neodymium, promethium, samarium, europium, gadolinium, terbium,  
17 dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium,  
18 or scandium.

19 (d) "Reuse" means any operation by which a solar module or a  
20 component of a solar module changes ownership and is used for the  
21 same purpose for which it was originally purchased.

22 (e) "Solar module" means the smallest nondivisible,  
23 environmentally protected, essentially planar assembly of solar  
24 cells, or other solar collector technology and ancillary parts  
25 intended to generate direct current power under sunlight, including  
26 but not limited to interconnections, terminals, and protective  
27 devices such as diodes, that is capable of interconnecting with the  
28 electric grid.

29 (f) "Stewardship plan" means the plan developed by a manufacturer  
30 or its designated stewardship organization for a self-directed  
31 stewardship program.

32 (g) "Stewardship program" means the activities conducted by a  
33 manufacturer or a stewardship organization to fulfill the  
34 requirements of this chapter and implement the activities described  
35 in its stewardship plan.

36 (3) **Program guidance, review, and approval.** The department must  
37 develop guidance for a solar module stewardship and takeback program  
38 to guide manufacturers in preparing and implementing a self-directed  
39 program to ensure the convenient, safe, and environmentally sound  
40 takeback and recycling of solar modules and their components and

1 materials. By January 1, 2017, the department must establish a  
2 process to develop guidance for solar module stewardship plans by  
3 working with manufacturers, stewardship organizations, and other  
4 stakeholders on the content, review, and approval of stewardship  
5 plans. The department's process must be fully implemented and  
6 stewardship plan guidance completed by January 1, 2018.

7 (4) **Stewardship organization as agent of manufacturer.** A  
8 stewardship organization may be designated to act as an agent on  
9 behalf of a manufacturer or manufacturers in operating and  
10 implementing the stewardship program required under this chapter. Any  
11 stewardship organization that has obtained such designation must  
12 provide to the department a list of the manufacturers and brand names  
13 that the stewardship organization represents within sixty days of its  
14 designation by a manufacturer as its agent, or within sixty days of  
15 removal of such designation.

16 (5) **Stewardship plans.** Each manufacturer must prepare and submit  
17 a stewardship plan to the department by the later of January 1, 2019,  
18 or within thirty days of its first sale of a solar module in or into  
19 the state.

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

21 (i) Include an adequate funding mechanism to finance the costs of  
22 collection, management, and recycling of solar modules and residuals  
23 sold in or into the state by the manufacturer with a mechanism that  
24 ensures that solar modules can be delivered to takeback locations  
25 without cost to the last owner or holder;

26 (ii) Accept all solar modules sold in or into the state after  
27 July 1, 2016;

28 (iii) Describe how the program will minimize the release of  
29 hazardous substances into the environment and maximize the recovery  
30 of other components, including rare earth elements and commercially  
31 valuable materials;

32 (iv) Provide for takeback of solar modules at locations that are  
33 within the region of the state in which the solar modules were used  
34 and are as convenient as reasonably practicable, and if no such  
35 location within the region of the state exists, include an  
36 explanation for the lack of such location;

37 (v) Identify how relevant stakeholders, including consumers,  
38 installers, building demolition firms, and recycling and treatment  
39 facilities, will receive information required in order for them to  
40 properly dismantle, transport, and treat the end-of-life solar

1 modules in a manner consistent with the objectives described in  
2 (a)(iii) of this subsection;

3 (vi) Establish performance goals, including a goal for the rate  
4 of combined reuse and recycling of collected solar modules as a  
5 percentage of the total weight of solar modules collected, which rate  
6 must be no less than eighty-five percent.

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

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

13 (6) **Plan approval.** The department shall approve a stewardship  
14 plan if it determines the plan addresses each element outlined in the  
15 department's guidance.

16 (7) **Annual report.** (a) Beginning April 1, 2021, and by April 1st  
17 in each subsequent year, a manufacturer, or its designated  
18 stewardship organization, must provide to the department a report for  
19 the previous calendar year that documents implementation of the plan  
20 and assesses achievement of the performance goals established in  
21 subsection (5)(a)(vi) of this section.

22 (b) The report may include any recommendations to the department  
23 or the legislature on modifications to the program that would enhance  
24 the effectiveness of the program, including management of program  
25 costs and mitigation of environmental impacts of solar modules.

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

28 (8) **Enforcement.** Beginning January 1, 2020, no manufacturer may  
29 sell or offer for sale a solar module in or into the state unless the  
30 manufacturer has submitted to the department a stewardship plan and  
31 received plan approval. The department shall send a written warning  
32 to a manufacturer that is not participating in a plan. The written  
33 warning must inform the manufacturer that it must submit a plan or  
34 participate in a plan within thirty days of the notice. The  
35 department may assess a penalty of up to ten thousand dollars for  
36 each sale of a solar module in or into the state that occurs after  
37 the initial written warning. A manufacturer may appeal a penalty  
38 issued under this section to the superior court of Thurston county  
39 within one hundred eighty days of receipt of the notice.

1           (9) **Fee.** The department may collect a flat fee from participating  
2 manufacturers to recover costs associated with the plan guidance,  
3 review, and approval process described in subsection (3) of this  
4 section. Other administrative costs incurred by the department for  
5 program implementation activities, including stewardship plan review  
6 and approval, enforcement, and any rule making, may be recovered by  
7 charging every manufacturer an annual fee calculated by dividing  
8 department administrative costs by the manufacturer's pro rata share  
9 of the Washington state solar module sales in the most recent  
10 preceding calendar year, based on best available information. The  
11 sole purpose of assessing the fees authorized in this subsection is  
12 to predictably and adequately fund the department's costs of  
13 administering the solar module recycling program.

14           (10) **Account.** The solar module recycling account is created in  
15 the custody of the state treasurer. All fees collected from  
16 manufacturers under this chapter must be deposited in the account.  
17 Expenditures from the account may be used only for administering this  
18 chapter. Only the director of the department or the director's  
19 designee may authorize expenditures from the account. The account is  
20 subject to the allotment procedures under chapter 43.88 RCW, but an  
21 appropriation is not required for expenditures. Funds in the account  
22 may not be diverted for any purpose or activity other than those  
23 specified in this section.

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

27           (12) **National program.** In lieu of preparing a stewardship plan  
28 and as provided by subsection (5) of this section, a manufacturer may  
29 participate in a national program for the convenient, safe, and  
30 environmentally sound takeback and recycling of solar modules and  
31 their components and materials. The department must determine that  
32 the manufacturer's participation in the national program is likely to  
33 achieve environmental outcomes in the state of Washington  
34 substantially equivalent to those achieved by a departmentally  
35 approved stewardship plan and is likely to be more cost-effective for  
36 the manufacturer than participation in a departmentally approved  
37 stewardship plan. The department may determine substantial  
38 equivalence if it determines that the national program adequately  
39 addresses each of the elements of a stewardship plan outlined in  
40 subsection (5)(a) of this section and includes an enforcement



1 mechanism reasonably calculated to ensure a manufacturer's compliance  
2 with the national program. Upon issuing a determination of  
3 substantial equivalence, the department must notify affected  
4 stakeholders including the manufacturer. If the national program is  
5 discontinued or the department determines the national program no  
6 longer provides equivalent environmental outcomes in Washington, the  
7 department must notify the manufacturer. The manufacturer must  
8 provide a stewardship plan as described in subsection (5)(a) of this  
9 section to the department for approval within thirty days of  
10 notification.

11 **Sec. 10.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each  
12 amended to read as follows:

13 (1)(a) Except as provided in RCW 82.08.963, purchasers who have  
14 paid the tax imposed by RCW 82.08.020 on machinery and equipment used  
15 directly in generating electricity using fuel cells, wind, sun,  
16 biomass energy, tidal or wave energy, geothermal resources, anaerobic  
17 digestion, technology that converts otherwise lost energy from  
18 exhaust, or landfill gas as the principal source of power, or to  
19 sales of or charges made for labor and services rendered in respect  
20 to installing such machinery and equipment, are eligible for an  
21 exemption as provided in this section, but only if the purchaser  
22 develops with such machinery, equipment, and labor a facility capable  
23 of generating not less than one thousand watts of electricity.

24 (b) Beginning on July 1, 2009, through June 30, 2011, the tax  
25 levied by RCW 82.08.020 does not apply to the sale of machinery and  
26 equipment described in (a) of this subsection that are used directly  
27 in generating electricity or to sales of or charges made for labor  
28 and services rendered in respect to installing such machinery and  
29 equipment.

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

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

37 (a) "Biomass energy" includes: (i) By-products of pulping and  
38 wood manufacturing process; (ii) animal waste; (iii) solid organic  
39 fuels from wood; (iv) forest or field residues; (v) wooden demolition

1 or construction debris; (vi) food waste; (vii) liquors derived from  
2 algae and other sources; (viii) dedicated energy crops; (ix)  
3 biosolids; and (x) yard waste. "Biomass energy" does not include wood  
4 pieces that have been treated with chemical preservatives such as  
5 creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old  
6 growth forests; or municipal solid waste.

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

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

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

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

28 (3)(a) Machinery and equipment is "used directly" in generating  
29 electricity by wind energy, solar energy, biomass energy, tidal or  
30 wave energy, geothermal resources, anaerobic digestion, technology  
31 that converts otherwise lost energy from exhaust, or landfill gas  
32 power if it provides any part of the process that captures the energy  
33 of the wind, sun, biomass energy, tidal or wave energy, geothermal  
34 resources, anaerobic digestion, technology that converts otherwise  
35 lost energy from exhaust, or landfill gas, 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.

39 (b) Machinery and equipment is "used directly" in generating  
40 electricity by fuel cells if it provides any part of the process that

1 captures the energy of the fuel, converts that energy to electricity,  
2 and stores, transforms, or transmits that electricity for entry into  
3 or operation in parallel with electric transmission and distribution  
4 systems.

5 (4)(a) A purchaser claiming an exemption in the form of a  
6 remittance under subsection (1)(c) of this section must pay the tax  
7 imposed by RCW 82.08.020 and all applicable local sales taxes imposed  
8 under the authority of chapters 82.14 and 81.104 RCW. The purchaser  
9 may then apply to the department for remittance in a form and manner  
10 prescribed by the department. A purchaser may not apply for a  
11 remittance under this section more frequently than once per quarter.  
12 The purchaser must specify the amount of exempted tax claimed and the  
13 qualifying purchases for which the exemption is claimed. The  
14 purchaser must retain, in adequate detail, records to enable the  
15 department to determine whether the purchaser is entitled to an  
16 exemption under this section, including: Invoices; proof of tax paid;  
17 and documents describing the machinery and equipment.

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

23 (5) The exemption provided by this section expires June 30, 2016,  
24 as it applies to: (a) Machinery and equipment that is used directly  
25 in the generation of electricity using solar energy and capable of  
26 generating no more than five hundred kilowatts of electricity; or (b)  
27 sales of or charges made for labor and services rendered in respect  
28 to installing such machinery and equipment.

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

30 **Sec. 11.** RCW 82.08.963 and 2013 2nd sp.s. c 13 s 1602 are each  
31 amended to read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
33 machinery and equipment used directly in generating electricity or  
34 producing thermal heat using solar energy, or to sales of or charges  
35 made for labor and services rendered in respect to installing such  
36 machinery and equipment, but only if the purchaser develops with such  
37 machinery, equipment, and labor a facility capable of generating not  
38 more than ten kilowatts of electricity or producing not more than  
39 three million British thermal units per day and provides the seller

1 with an exemption certificate in a form and manner prescribed by the  
2 department. The seller must retain a copy of the certificate for the  
3 seller's files. For sellers who electronically file their taxes, the  
4 department must provide a separate tax reporting line for exemption  
5 amounts claimed by a buyer under this section.

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

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

11 (b) "Machinery and equipment" does not include: (i) Hand-powered  
12 tools; (ii) property with a useful life of less than one year; (iii)  
13 repair parts required to restore machinery and equipment to normal  
14 working order; (iv) replacement parts that do not increase  
15 productivity, improve efficiency, or extend the useful life of  
16 machinery and equipment; (v) buildings; or (vi) building fixtures  
17 that are not integral and necessary to the generation of electricity  
18 that are permanently affixed to and become a physical part of a  
19 building;

20 (c) Machinery and equipment is "used directly" in generating  
21 electricity with solar energy if it provides any part of the process  
22 that captures the energy of the sun, converts that energy to  
23 electricity, and stores, transforms, or transmits that electricity  
24 for entry into or operation in parallel with electric transmission  
25 and distribution systems; and

26 (d) Machinery and equipment is "used directly" in producing  
27 thermal heat with solar energy if it uses a solar collector or a  
28 solar hot water system that (i) meets the certification standards for  
29 solar collectors and solar hot water systems developed by the solar  
30 rating and certification corporation; or (ii) is determined by the  
31 Washington State University extension whether a solar collector or  
32 solar hot water system is an equivalent collector or system.

33 (3) The exemption provided by this section for the sales of  
34 machinery and equipment that is used directly in the generation of  
35 electricity using solar energy, or for sales of or charges made for  
36 labor or services rendered in respect to installing such machinery  
37 and equipment, expires June 30, 2016.

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

1       **Sec. 12.** RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each  
2 amended to read as follows:

3       (1)(a) Except as provided in RCW 82.12.963, consumers who have  
4 paid the tax imposed by RCW 82.12.020 on machinery and equipment used  
5 directly in generating electricity using fuel cells, wind, sun,  
6 biomass energy, tidal or wave energy, geothermal resources, anaerobic  
7 digestion, technology that converts otherwise lost energy from  
8 exhaust, or landfill gas as the principal source of power, or to  
9 sales of or charges made for labor and services rendered in respect  
10 to installing such machinery and equipment, are eligible for an  
11 exemption as provided in this section, but only if the purchaser  
12 develops with such machinery, equipment, and labor a facility capable  
13 of generating not less than one thousand watts of electricity.

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

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

25       (2)(a) A person claiming an exemption in the form of a remittance  
26 under subsection (1)(c) of this section must pay the tax imposed by  
27 RCW 82.12.020 and all applicable local use taxes imposed under the  
28 authority of chapters 82.14 and 81.104 RCW. The consumer may then  
29 apply to the department for remittance in a form and manner  
30 prescribed by the department. A consumer may not apply for a  
31 remittance under this section more frequently than once per quarter.  
32 The consumer must specify the amount of exempted tax claimed and the  
33 qualifying purchases or acquisitions for which the exemption is  
34 claimed. The consumer must retain, in adequate detail, records to  
35 enable the department to determine whether the consumer is entitled  
36 to an exemption under this section, including: Invoices; proof of tax  
37 paid; and documents describing the machinery and equipment.

38       (b) The department must determine eligibility under this section  
39 based on the information provided by the consumer, which is subject  
40 to audit verification by the department. The department must on a

1 quarterly basis remit exempted amounts to qualifying consumers who  
2 submitted applications during the previous quarter.

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

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

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

8 (a) To machinery and equipment used directly in the generation of  
9 electricity using solar energy and capable of generating no more than  
10 five hundred kilowatts of electricity, or to sales of or charges made  
11 for labor and services rendered in respect to installing such  
12 machinery and equipment, when first use within this state of such  
13 machinery and equipment, or labor and services, occurs after June 30,  
14 2016; and

15 (b) To any other machinery and equipment described in subsection  
16 (1)(a) of this section, or to sales of or charges made for labor and  
17 services rendered in respect to installing such machinery or  
18 equipment, when first use within this state of such machinery and  
19 equipment, or labor and services, occurs after December 31, 2019.

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

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

23 (1) The provisions of this chapter do not apply with respect to  
24 machinery and equipment used directly in generating not more than ten  
25 kilowatts of electricity or producing not more than three million  
26 British thermal units per day using solar energy, or to the use of  
27 labor and services rendered in respect to installing such machinery  
28 and equipment.

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

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

31 (a) To the use of machinery and equipment used directly in the  
32 generation of electricity using solar energy, or to the use of labor  
33 and services rendered in respect to installing such machinery and  
34 equipment, when first use within this state of such machinery and  
35 equipment, or labor and services, occurs after June 30, 2016; and

36 (b) To the use of any machinery or equipment used directly in  
37 producing thermal heat using solar energy, or to the use of labor and  
38 services rendered in respect to installing such machinery or

1 equipment, when first use within this state of such machinery and  
2 equipment, or labor and services, occurs after June 30, 2018.

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

4 NEW SECTION. **Sec. 14.** Section 9 of this act constitutes a new  
5 chapter in Title 70 RCW.

6 NEW SECTION. **Sec. 15.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of  
8 the state government and its existing public institutions, and takes  
9 effect immediately.

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