
SUBSTITUTE SENATE BILL 5161

State of Washington

61st Legislature

2009 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Hobbs, Rockefeller, Honeyford, Hewitt, Oemig, Shin, Zarelli, Regala, Benton, Kilmer, Kline, Roach, Haugen, and Pridemore)

READ FIRST TIME 02/09/09.

1 AN ACT Relating to extending tax incentives for renewable
2 resources, including tidal and wave energy; amending RCW 82.16.110,
3 82.16.120, 82.16.130, 82.08.02567, 82.12.02567, 82.16.055, 82.04.294,
4 82.08.965, 82.08.9651, 82.12.9651, and 82.32.535; amending 2006 c 300
5 s 12 (uncodified); reenacting and amending RCW 82.32.600; adding new
6 sections to chapter 82.04 RCW; adding new sections to chapter 82.08
7 RCW; adding new sections to chapter 82.12 RCW; adding new sections to
8 chapter 82.16 RCW; adding a new section to chapter 84.36 RCW; creating
9 a new section; providing an effective date; providing expiration dates;
10 and declaring an emergency.

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

12 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington's
13 growing population and economy will put a strain on energy supplies and
14 threaten the ability of the state to meet its climate policy goals
15 unless specific steps are taken to reduce demand and utilize energy
16 more efficiently. Water heating for domestic and industrial use relies
17 almost entirely on electricity and natural gas and accounts for a
18 significant percentage of the state's electrical and natural gas
19 consumption. Solar water heating systems represent one of the largest

1 untapped electricity and natural gas conservation potential remaining
2 in Washington. The legislature finds that solar water heaters can
3 provide half or more of the hot water needs in the average home, and
4 reduce electric or natural gas consumption with free renewable energy
5 from the sun.

6 (2) It is the intent of the legislature to facilitate the
7 installation of solar water heating systems in homes and businesses by
8 providing: (a) A rebate to customers who install solar water heating
9 systems; and (b) a tax credit to the light and power business based on
10 the amount of solar water heating systems installed by their customers.
11 The rebate and tax credit will support energy conservation, save
12 thousands of dollars in home heating costs, and preserve the
13 environment. The legislature finds that the rebate and tax credit has
14 broad application for the installation of solar water heating systems
15 in urban, rural, business, and residential locations, as well as in any
16 climate throughout the state.

17 (3) This section expires December 31, 2012.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
19 to read as follows:

20 (1) This chapter does not apply to amounts received by a business
21 for installing, repairing, cleaning, altering, or improving solar hot
22 water heating systems that qualify for rebates under section 6 of this
23 act, eligible net metering systems under chapter 80.60 RCW, or
24 renewable energy systems eligible to receive investment cost recovery
25 incentives under RCW 82.16.110.

26 (2) This section expires June 30, 2019.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
28 to read as follows:

29 (1) In computing the tax imposed under this chapter, a credit is
30 allowed for renewable energy manufacturing expenditures.

31 (2) The amount of the credit provided in subsection (1) of this
32 section may not exceed the tax otherwise due under this chapter for the
33 tax reporting period.

34 (3) The total amount of credits taken under this section in any
35 year by a person may not exceed five hundred thousand dollars.

1 (4) A person may sell or otherwise transfer the economic value of
2 any credit provided in this section for a renewable energy
3 manufacturing expenditure. The buyer is entitled to take a credit
4 equal to seventy percent of the remaining credit that would have
5 otherwise been allowed under this section.

6 (5) The definitions in this subsection apply throughout this
7 section:

8 (a) "Renewable energy manufacturing expenditures" means
9 expenditures for:

10 (i) Land that includes a renewable energy manufacturing facility;

11 (ii) Machinery and equipment used in or integral to a renewable
12 energy manufacturing facility; and

13 (iii) Tangible personal property and labor and services used in the
14 construction, expansion, or reconstruction of a renewable energy
15 manufacturing facility.

16 (b) "Renewable energy manufacturing facility" means a facility used
17 solely for manufacturing solar, wind, geothermal, or bioenergy
18 equipment.

19 (6) A person taking the credit under this section must report as
20 required under RCW 82.32.535.

21 (7) Credits may be carried forward until used; however, no credit
22 may be earned under this section on or after July 1, 2014.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW
24 to read as follows:

25 (1) The tax levied by RCW 82.08.020 does not apply to charges made
26 for labor and services rendered in respect to the constructing,
27 reconstructing, or expanding of a renewable energy manufacturing
28 facility, to sales of tangible personal property that will be
29 incorporated as an ingredient or component of such facility during the
30 course of the constructing, reconstructing, or expanding, or to labor
31 and services rendered in respect to installing, during the course of
32 constructing, reconstructing, or expanding, building fixtures not
33 otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The
34 exemption is available only when the buyer provides the seller with an
35 exemption certificate in a form and manner prescribed by the
36 department. The seller must retain a copy of the certificate for the
37 seller's files.

1 (2) No application is necessary for the tax exemption. The person
2 is subject to all of the requirements of chapter 82.32 RCW. A person
3 taking the exemption under this section must report as required under
4 RCW 82.32.535.

5 (3) "Renewable energy manufacturing facility" has the same meaning
6 as provided in section 3 of this act.

7 (4) This section expires July 1, 2014.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW
9 to read as follows:

10 (1) The provisions of this chapter do not apply with respect to the
11 use of labor and services rendered in respect to the constructing,
12 reconstructing, or expanding of a renewable energy manufacturing
13 facility, to tangible personal property that will be incorporated as an
14 ingredient or component of such facility during the course of the
15 constructing, reconstructing, or expanding, or to labor and services
16 rendered in respect to installing, during the course of constructing,
17 reconstructing, or expanding, building fixtures not otherwise eligible
18 for the exemption under RCW 82.08.02565(2)(b).

19 (2) A person taking the exemption under this section must report as
20 required under RCW 82.32.535.

21 (3) "Renewable energy manufacturing facility" has the same meaning
22 as provided in section 3 of this act.

23 (4) This section expires July 1, 2014.

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

26 (1) Beginning July 1, 2009, a light and power business or gas
27 company may provide a rebate to its retail customers for the costs
28 incurred by such customers in installing solar water heating systems in
29 their home or business. The amount of the rebate must not be more
30 than:

31 (a) Fifty percent of the total costs incurred by the customer for
32 solar water heating systems manufactured outside of Washington; and

33 (b) Seventy-five percent of the total costs incurred by the
34 customer for solar water heating systems manufactured in Washington.

35 (2) In determining the amount of the rebate, a light and power

1 business or gas company must determine a tiered amount based on the
2 efficiency of the solar water heating system.

3 (3)(a) No individual, household, business, or local governmental
4 entity is eligible for rebates for more than four thousand dollars per
5 calendar year.

6 (b) For solar water heating systems manufactured in Washington, no
7 individual, household, business, or local governmental entity is
8 eligible for rebates for more than five thousand dollars per calendar
9 year.

10 (4) In no event may the total amount of such rebates for each light
11 and power business or gas company, during any calendar year, exceed the
12 amount of the tax credit provided under section 7 of this act.

13 (5) For the purposes of this act, a solar water heating system
14 must, at a minimum, have a solar rating and certification corporation
15 (SRCC) certification as of July 1, 2009.

16 (6) This section expires December 31, 2012.

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

19 (1) Each light and power business or gas company must be allowed a
20 credit against taxes due under this chapter in an amount up to fifty
21 percent of rebates made in any calendar year under section 6 of this
22 act.

23 (2) The credit must be taken in a form and manner as required by
24 the department.

25 (3) The credit under this section for the calendar year may not
26 exceed twenty-five one-hundredths of one percent of the businesses'
27 taxable power sales due under RCW 82.16.020(1)(b) or fifty thousand
28 dollars, whichever is greater.

29 (4) The credit may not exceed the tax that would otherwise be due
30 under this chapter.

31 (5) Refunds may not be granted in the place of credits.

32 (6) Expenditures not used to earn a credit in one calendar fiscal
33 year may not be used to earn a credit in subsequent years, except that
34 this limitation does not apply to expenditures made between January 1,
35 2009, and July 1, 2009, which expenditures may be used to earn a credit
36 through December 31, 2009.

1 (7) The total amount of credits that may be used in any calendar
2 year may not exceed one million dollars in any calendar year. If
3 requests for the credit in section 6 of this act exceed the total
4 amount of credits available, the credits must be reduced
5 proportionally.

6 (8) This section expires December 31, 2012.

7 NEW SECTION. Sec. 8. A new section is added to chapter 84.36 RCW
8 to read as follows:

9 (1) Property equipped with solar energy systems for the purpose of
10 heating, cooling, or generating electrical energy is exempt from ad
11 valorem taxation in an amount that equals any positive amount obtained
12 by subtracting the real market value of the property, as if it were not
13 equipped with such systems, from the real market value of the property
14 so equipped.

15 (2) This section applies to tax years beginning prior to July 1,
16 2020.

17 (3) This section does not apply to property used by a light and
18 power business for the generation of electricity.

19 **Sec. 9.** RCW 82.16.110 and 2005 c 300 s 2 are each amended to read
20 as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (1)(a) "Community solar project" means:

24 (i) A solar energy system owned by local individuals, households,
25 nonprofit organizations, or nonutility businesses that is placed on the
26 property owned by a cooperating local governmental entity; or

27 (ii) A utility-owned solar energy system that is voluntarily funded
28 by the utility's ratepayers where, in exchange for their financial
29 support, the utility gives contributors a payment or credit on their
30 utility bill for the value of the electricity produced by the project.

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

33 (i) "Nonprofit organization" means an organization exempt from
34 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
35 revenue code of 1986, as amended, as of January 1, 2009; and

36 (ii) "Utility" means a light and power business.

1 (2) "Customer-generated electricity" means the alternating current
2 electricity that is generated from a renewable energy system located on
3 an individual's, businesses', or local government's real property that
4 is also provided electricity generated by a light and power business.
5 Except for community solar projects, a system located on a leasehold
6 interest does not qualify under this definition. "Customer-generated
7 electricity" does not include electricity generated by a light and
8 power business with greater than one thousand megawatt hours of annual
9 sales or a gas distribution business.

10 ((+2)) (3) "Economic development kilowatt-hour" means the actual
11 kilowatt-hour measurement of customer-generated electricity multiplied
12 by the appropriate economic development factor.

13 ((+3)) (4) "Local governmental entity" means any unit of local
14 government of this state including, but not limited to, counties,
15 cities, towns, municipal corporations, quasi-municipal corporations,
16 special purpose districts, and school districts.

17 (5) "Photovoltaic cell" means a device that converts light directly
18 into electricity without moving parts.

19 ((+4)) (6) "Renewable energy system" means a solar energy system,
20 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
21 used for producing electricity.

22 ((+5)) (7) "Solar energy system" means any device or combination
23 of devices or elements that rely upon direct sunlight as an energy
24 source for use in the generation of electricity.

25 ((+6)) (8) "Solar inverter" means the device used to convert
26 direct current to alternating current in a photovoltaic cell system.

27 ((+7)) (9) "Solar module" means the smallest nondivisible self-
28 contained physical structure housing interconnected photovoltaic cells
29 and providing a single direct current electrical output.

30 ~~((+8) "Standards for interconnection to the electric distribution~~
31 ~~system" means technical, engineering, operational, safety, and~~
32 ~~procedural requirements for interconnection to the electric~~
33 ~~distribution system of a light and power business.))~~

34 **Sec. 10.** RCW 82.16.120 and 2007 c 111 s 101 are each amended to
35 read as follows:

36 (1) Any individual, business, or local governmental entity, not in
37 the light and power business or in the gas distribution business, may

1 apply to the light and power business serving the situs of the system,
2 each fiscal year beginning on July 1, 2005, for an investment cost
3 recovery incentive for each kilowatt-hour from a customer-generated
4 electricity renewable energy system (~~((installed on its property that is
5 not interconnected to the electric distribution system))~~). No incentive
6 may be paid for kilowatt-hours generated before July 1, 2005, or after
7 June 30, ~~((2014))~~ 2024.

8 ~~(2) ((When light and power businesses serving eighty percent of the
9 total customer load in the state adopt uniform standards for
10 interconnection to the electric distribution system, any individual,
11 business, or local governmental entity, not in the light and power
12 business or in the gas distribution business, may apply to the light
13 and power business serving the situs of the system, each fiscal year,
14 for an investment cost recovery incentive for each kilowatt hour from
15 a customer-generated electricity renewable energy system installed on
16 its property that is not interconnected to the electric distribution
17 system and from a customer-generated electricity renewable energy
18 system installed on its property that is interconnected to the electric
19 distribution system. Uniform standards for interconnection to the
20 electric distribution system means those standards established by light
21 and power businesses that have ninety percent of total requirements the
22 same. No incentive may be paid for kilowatt hours generated before
23 July 1, 2005, or after June 30, 2014.~~

24 ~~(3))~~(a) Before submitting for the first time the application for
25 the incentive allowed under subsection (4) of this section, the
26 applicant shall submit to the department of revenue and to the climate
27 and rural energy development center at the Washington State University,
28 established under RCW 28B.30.642, a certification in a form and manner
29 prescribed by the department that includes, but is not limited to, the
30 following information:

31 (i) The name and address of the applicant and location of the
32 renewable energy system;

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

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

37 (A) Any solar inverters and solar modules manufactured in
38 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; or

5 (E) Solar or wind equipment manufactured outside of Washington
6 state;

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

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

12 (b) Within thirty days of receipt of the certification the
13 department of revenue shall notify the applicant by mail, or
14 electronically as provided in RCW 82.32.135, whether the renewable
15 energy system qualifies for an incentive under this section. The
16 department may consult with the climate and rural energy development
17 center to determine eligibility for the incentive. System
18 certifications and the information contained therein are subject to
19 disclosure under RCW 82.32.330(3)(m).

20 ((+4)) (3)(a) By August 1st of each year application for the
21 incentive shall be made to the light and power business serving the
22 situs of the system by certification in a form and manner prescribed by
23 the department that includes, but is not limited to, the following
24 information:

25 (i) The name and address of the applicant and location of the
26 renewable energy system;

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

28 (iii) The date of the notification from the department of revenue
29 stating that the renewable energy system is eligible for the incentives
30 under this section;

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

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

1 incentive payment. Incentive certifications and the information
2 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

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

16 (ii) If it appears that the amount of incentive paid is less than
17 the correct amount of incentive payable the business may authorize
18 additional payment.

19 ~~((+5))~~ (4) Except for community solar projects, the investment
20 cost recovery incentive may be paid fifteen cents per economic
21 development kilowatt-hour unless requests exceed the amount authorized
22 for credit to the participating light and power business. For
23 community solar projects, the investment cost recovery incentive may be
24 paid thirty cents per economic development kilowatt-hour unless
25 requests exceed the amount authorized for credit to the participating
26 light and power business. For the purposes of this section, the rate
27 paid for the investment cost recovery incentive may be multiplied by
28 the following factors:

29 (a) For customer-generated electricity produced using solar modules
30 manufactured in Washington state, two and four-tenths;

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

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

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

1 ~~((+6))~~ (5) No individual, household, business, or local
2 governmental entity is eligible for incentives provided under
3 subsection (4) of this section for more than ~~((two))~~ five thousand
4 dollars per year. Each applicant in a community solar project is
5 eligible for up to five thousand dollars per year.

6 (6) The investment cost recovery incentive may be paid fifty-four
7 cents per kilowatt-hour generated by a commercial or industrial
8 customer consuming at least one-half of the electricity generated in
9 its commercial or industrial activities at the site of the generation.
10 No incentive provided under this subsection may exceed twenty thousand
11 dollars per utility revenue meter per year. A person claiming an
12 incentive payment under this subsection is not eligible for the
13 incentive provided under subsection (5) of this section for the same
14 calendar year.

15 (7) If requests for the investment cost recovery incentive exceed
16 the amount of funds available for credit to the participating light and
17 power business, the incentive payments shall be reduced
18 proportionately.

19 (8) The climate and rural energy development center at Washington
20 State University energy program may establish guidelines and standards
21 for technologies that are identified as Washington manufactured and
22 therefore most beneficial to the state's environment.

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

27 **Sec. 11.** RCW 82.16.130 and 2005 c 300 s 4 are each amended to read
28 as follows:

29 (1) A light and power business shall be allowed a credit against
30 taxes due under this chapter in an amount equal to investment cost
31 recovery incentive payments made in any fiscal year under RCW
32 82.16.120. The credit shall be taken in a form and manner as required
33 by the department. The credit under this section for the fiscal year
34 shall not exceed ~~((twenty-five one-hundredths of))~~ one percent of the
35 businesses' taxable power sales due under RCW 82.16.020(1)(b) or
36 ~~((twenty-five))~~ one-hundred thousand dollars, whichever is greater.
37 Incentive payments to participants in a utility-owned community solar

1 project as defined in RCW 82.16.110(1)(a)(ii) may only account for up
2 to twenty-five percent of the total allowable credit. The credit may
3 not exceed the tax that would otherwise be due under this chapter.
4 Refunds shall not be granted in the place of credits. Expenditures not
5 used to earn a credit in one fiscal year may not be used to earn a
6 credit in subsequent years.

7 (2) For any business that has claimed credit for amounts that
8 exceed the correct amount of the incentive payable under RCW 82.16.120,
9 the amount of tax against which credit was claimed for the excess
10 payments shall be immediately due and payable. The department shall
11 assess interest but not penalties on the taxes against which the credit
12 was claimed. Interest shall be assessed at the rate provided for
13 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
14 date the credit was claimed, and shall accrue until the taxes against
15 which the credit was claimed are repaid.

16 (3) The right to earn tax credits under this section expires June
17 30, (~~(2015)~~) 2024. Credits may not be claimed after June 30, (~~(2016)~~)
18 2025.

19 **Sec. 12.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to
20 read as follows:

21 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
22 machinery and equipment used directly in generating electricity using
23 fuel cells, (~~(wind,~~) biomass resources, sun, solar thermal electric
24 technology, tidal or wave energy, geothermal resources, black liquors
25 derived from algae and other sources, anaerobic digestion, technology
26 that converts otherwise lost energy from exhaust heat, or landfill gas
27 as the principal source of power, or to sales of or charges made for
28 labor and services rendered in respect to installing such machinery and
29 equipment, but only if the purchaser develops with such machinery,
30 equipment, and labor a facility capable of generating not less than two
31 hundred watts of electricity and provides the seller with an exemption
32 certificate in a form and manner prescribed by the department. The
33 seller shall retain a copy of the certificate for the seller's files.

34 (2) For purposes of this section and RCW 82.12.02567:

35 (a) "Landfill gas" means biomass fuel of the type qualified for
36 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.

37 "Landfill" means a landfill as defined under RCW 70.95.030;

1 (b) "Machinery and equipment" means industrial fixtures, devices,
2 and support facilities that are integral and necessary to the
3 generation of electricity using fuel cells, wind, sun, or landfill gas
4 as the principal source of power;

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

13 (d) Machinery and equipment is "used directly" in generating
14 electricity with fuel cells or by wind energy, solar energy, or
15 landfill gas power if it provides any part of the process that captures
16 the energy of the wind, sun, or landfill gas, converts that energy to
17 electricity, and stores, transforms, or transmits that electricity for
18 entry into or operation in parallel with electric transmission and
19 distribution systems;

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

23 (3) This section expires June 30, ((2009)) 2019.

24 **Sec. 13.** RCW 82.12.02567 and 2004 c 152 s 2 are each amended to
25 read as follows:

26 (1) The provisions of this chapter shall not apply with respect to
27 machinery and equipment used directly in generating not less than two
28 hundred watts of electricity using fuel cells, ((wind,)) biomass
29 resources, sun, solar thermal electric technology, tidal or wave
30 energy, geothermal resources, black liquors derived from algae and
31 other sources, anaerobic digestion, technology that converts otherwise
32 lost energy from exhaust heat, or landfill gas as the principal source
33 of power, or to the use of labor and services rendered in respect to
34 installing such machinery and equipment.

35 (2) The definitions in RCW 82.08.02567 apply to this section.

36 (3) This section expires June 30, ((2009)) 2019.

1 **Sec. 14.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to read
2 as follows:

3 (1) In computing tax under this chapter there shall be deducted
4 from the gross income:

5 (a) An amount equal to the cost of production at the plant for
6 consumption within the state of Washington of:

7 (i) Electrical energy produced or generated from cogeneration (~~as~~
8 ~~defined in RCW 82.35.020~~); and

9 (ii) Electrical energy or gas produced or generated from renewable
10 energy resources such as solar energy, tidal or wave energy, geothermal
11 resources, black liquors derived from algae and other sources,
12 anaerobic digestion, wind energy, hydroelectric energy, geothermal
13 energy, wood, wood wastes, municipal wastes, agricultural products and
14 wastes, and end-use waste heat; and

15 (b) Those amounts expended to improve consumers' efficiency of
16 energy end use or to otherwise reduce the use of electrical energy or
17 gas by the consumer.

18 (2)(a) Unless provided otherwise in (b) of this subsection, this
19 section applies only to new facilities for the production or generation
20 of energy from cogeneration or renewable energy resources or measures
21 to improve the efficiency of energy end use on which construction or
22 installation is begun after June 12, 1980, and before January 1, 1990.
23 Deductions under subsection (1)(a) of this section for new facilities
24 under this subsection (2)(a) are allowed for a period not to exceed
25 thirty years after the project is placed in operation.

26 (b) This section applies to new facilities for the production and
27 generation of energy from tidal and wave energy, black liquors derived
28 from algae and other sources, anaerobic digestion, and from geothermal
29 resources, on which construction or installation is begun after January
30 1, 2009, and before January 1, 2019. Deductions under subsection
31 (1)(a) of this section for new facilities under this subsection (2)(b)
32 are allowed for a period not to exceed ten years after the project is
33 placed in operation.

34 ~~(3) ((Deductions under subsection (1)(a) of this section shall be~~
35 ~~allowed for a period not to exceed thirty years after the project is~~
36 ~~placed in operation.~~

37 ~~(4) Measures or projects encouraged under this section shall at the~~
38 ~~time they are placed in service be reasonably expected to save,~~

1 ~~produce, or generate energy at a total incremental system cost per unit~~
2 ~~of energy delivered to end use which is less than or equal to the~~
3 ~~incremental system cost per unit of energy delivered to end use from~~
4 ~~similarly available conventional energy resources which utilize nuclear~~
5 ~~energy or fossil fuels and which the gas or electric utility could~~
6 ~~acquire to meet energy demand in the same time period.~~

7 (5)) The department ((of revenue)), after consultation with the
8 utilities and transportation commission ((in the case of investor-owned
9 utilities)) and the governing bodies of locally regulated utilities,
10 shall determine the eligibility of individual projects and measures for
11 deductions under this section.

12 **Sec. 15.** RCW 82.04.294 and 2007 c 54 s 8 are each amended to read
13 as follows:

14 (1)(a) Beginning October 1, 2005, upon every person engaging within
15 this state in the business of manufacturing solar energy systems using
16 photovoltaic modules, or of manufacturing solar grade silicon to be
17 used exclusively in components of such systems; as to such persons the
18 amount of tax with respect to such business shall, in the case of
19 manufacturers, be equal to the value of the product manufactured, or in
20 the case of processors for hire, be equal to the gross income of the
21 business, multiplied by the rate of 0.2904 percent.

22 (b) Beginning October 1, 2009, upon every person engaging within
23 this state in the business of manufacturing solar energy systems using
24 photovoltaic modules, or of manufacturing solar grade silicon, silicon
25 solar wafers, silicon solar cells, thin film solar devices, or compound
26 semiconductor solar wafers to be used exclusively in components of such
27 systems; as to such persons the amount of tax with respect to such
28 business is, in the case of manufacturers, equal to the value of the
29 product manufactured, or in the case of processors for hire, equal to
30 the gross income of the business, multiplied by the rate of 0.275
31 percent.

32 (2)(a) Beginning October 1, 2005, upon every person engaging within
33 this state in the business of making sales at wholesale of solar energy
34 systems using photovoltaic modules, or of solar grade silicon to be
35 used exclusively in components of such systems, manufactured by that
36 person; as to such persons the amount of tax with respect to such
37 business shall be equal to the gross proceeds of sales of the solar

1 energy systems using photovoltaic modules, or of the solar grade
2 silicon to be used exclusively in components of such systems,
3 multiplied by the rate of 0.2904 percent.

4 (b) Beginning October 1, 2009, upon every person engaging within
5 this state in the business of making sales at wholesale of solar energy
6 systems using photovoltaic modules, or of solar grade silicon, silicon
7 solar wafers, silicon solar cells, thin film solar devices, or compound
8 semiconductor solar wafers to be used exclusively in components of such
9 systems, manufactured by that person; as to such persons the amount of
10 tax with respect to such business is equal to the gross proceeds of
11 sales of the solar energy systems using photovoltaic modules, or of the
12 solar grade silicon to be used exclusively in components of such
13 systems, multiplied by the rate of 0.275 percent.

14 (3) Beginning October 1, 2009, silicon solar wafers, silicon solar
15 cells, thin film solar devices, or compound semiconductor solar wafers
16 are "semiconductor materials" for the purposes of RCW 82.08.965,
17 82.08.9651, 82.12.965, and 82.12.9651.

18 (4) The definitions in this subsection apply throughout this
19 section.

20 (a) "Compound semiconductor solar wafers" means a semiconductor
21 solar wafer composed of elements from two or more different groups of
22 the periodic table.

23 (b) "Module" means the smallest nondivisible self-contained
24 physical structure housing interconnected photovoltaic cells and
25 providing a single direct current electrical output.

26 ~~((b))~~ (c) "Photovoltaic cell" means a device that converts light
27 directly into electricity without moving parts.

28 ~~((c))~~ (d) "Silicon solar cells" means a photovoltaic cell
29 manufactured from a silicon solar wafer.

30 (e) "Silicon solar wafers" means a silicon wafer manufactured for
31 solar conversion purposes.

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

35 ~~((d))~~ (g) "Solar grade silicon" means high-purity silicon used
36 exclusively in components of solar energy systems using photovoltaic
37 modules to capture direct sunlight. "Solar grade silicon" does not
38 include silicon used in semiconductors.

1 ((+4)) (h) "Thin film solar devices" means a nonparticipating
2 substrate on which various semiconducting materials are deposited to
3 produce a photovoltaic cell that is used to generate electricity.

4 (5) This section expires June 30, 2014.

5 **Sec. 16.** RCW 82.08.965 and 2003 c 149 s 5 are each amended to read
6 as follows:

7 (1) The tax levied by RCW 82.08.020 (~~shall~~) does not apply to
8 charges made for labor and services rendered in respect to the
9 constructing of new buildings used for the manufacturing of
10 semiconductor materials, to sales of tangible personal property that
11 will be incorporated as an ingredient or component of such buildings
12 during the course of the constructing, or to labor and services
13 rendered in respect to installing, during the course of constructing,
14 building fixtures not otherwise eligible for the exemption under RCW
15 82.08.02565(2)(b). The exemption is available only when the buyer
16 provides the seller with an exemption certificate in a form and manner
17 prescribed by the department. The seller shall retain a copy of the
18 certificate for the seller's files.

19 (2) To be eligible under this section the manufacturer or processor
20 for hire must meet the following requirements for an eight-year period,
21 such period beginning the day the new building commences commercial
22 production, or a portion of tax otherwise due shall be immediately due
23 and payable pursuant to subsection (3) of this section:

24 (a) The manufacturer or processor for hire must maintain at least
25 seventy-five percent of full employment at the new building for which
26 the exemption under this section is claimed.

27 (b) Before commencing commercial production at a new facility the
28 manufacturer or processor for hire must meet with the department to
29 review projected employment levels in the new buildings. The
30 department, using information provided by the taxpayer, shall make a
31 determination of the number of positions that would be filled at full
32 employment. This number shall be used throughout the eight-year period
33 to determine whether any tax is to be repaid. This information is not
34 subject to the confidentiality provisions of RCW 82.32.330 and may be
35 disclosed to the public upon request.

36 (c) In those situations where a production building in existence on
37 the effective date of this section will be phased out of operation

1 during which time employment at the new building at the same site is
2 increased, the manufacturer or processor for hire shall maintain
3 seventy-five percent of full employment at the manufacturing site
4 overall.

5 (d) No application is necessary for the tax exemption. The person
6 is subject to all the requirements of chapter 82.32 RCW. A person
7 taking the exemption under this section must report as required under
8 RCW 82.32.535.

9 (3) If the employment requirement is not met for any one calendar
10 year, one-eighth of the exempt sales and use taxes shall be due and
11 payable by April 1st of the following year. The department shall
12 assess interest to the date the tax was imposed, but not penalties, on
13 the taxes for which the person is not eligible.

14 (4) The exemption applies to new buildings, or parts of buildings,
15 that are used exclusively in the manufacturing of semiconductor
16 materials, including the storage of raw materials and finished product.

17 (5) For the purposes of this section:

18 (a) "Commencement of commercial production" is deemed to have
19 occurred when the equipment and process qualifications in the new
20 building are completed and production for sale has begun; and

21 (b) "Full employment" is the number of positions required for full
22 capacity production at the new building, for positions such as line
23 workers, engineers, and technicians.

24 (c) "Semiconductor materials" has the same meaning as provided in
25 RCW 82.04.240(2) and 82.04.294(3).

26 (6) No exemption may be taken after twelve years after the
27 effective date of this act, however all of the eligibility criteria and
28 limitations are applicable to any exemptions claimed before that date.

29 (7) This section expires twelve years after the effective date of
30 this act.

31 **Sec. 17.** RCW 82.08.9651 and 2006 c 84 s 3 are each amended to read
32 as follows:

33 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
34 gases and chemicals used by a manufacturer or processor for hire in the
35 production of semiconductor materials. This exemption is limited to
36 gases and chemicals used in the production process to grow the product,
37 deposit or grow permanent or sacrificial layers on the product, to etch

1 or remove material from the product, to anneal the product, to immerse
2 the product, to clean the product, and other such uses whereby the
3 gases and chemicals come into direct contact with the product during
4 the production process, or uses of gases and chemicals to clean the
5 chambers and other like equipment in which such processing takes place.
6 For the purposes of this section, "semiconductor materials" has the
7 meaning provided in RCW 82.04.2404 and 82.04.294(3).

8 (2) A person taking the exemption under this section must report
9 under RCW 82.32.5351. No application is necessary for the tax
10 exemption. The person is subject to all of the requirements of chapter
11 82.32 RCW.

12 (3) This section expires twelve years after December 1, 2006.

13 **Sec. 18.** RCW 82.12.9651 and 2006 c 84 s 4 are each amended to read
14 as follows:

15 (1) The provisions of this chapter do not apply with respect to the
16 use of gases and chemicals used by a manufacturer or processor for hire
17 in the production of semiconductor materials. This exemption is
18 limited to gases and chemicals used in the production process to grow
19 the product, deposit or grow permanent or sacrificial layers on the
20 product, to etch or remove material from the product, to anneal the
21 product, to immerse the product, to clean the product, and other such
22 uses whereby the gases and chemicals come into direct contact with the
23 product during the production process, or uses of gases and chemicals
24 to clean the chambers and other like equipment in which such processing
25 takes place. For purposes of this section, "semiconductor materials"
26 has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

27 (2) A person taking the exemption under this section must report
28 under RCW 82.32.5351. No application is necessary for the tax
29 exemption. The person is subject to all of the requirements of chapter
30 82.32 RCW.

31 (3) This section expires twelve years after December 1, 2006.

32 **Sec. 19.** RCW 82.32.535 and 2003 c 149 s 11 are each amended to
33 read as follows:

34 (1) The legislature finds that accountability and effectiveness are
35 important aspects of setting tax policy. In order to make policy

1 choices regarding the best use of limited state resources the
2 legislature needs information on how a tax incentive is used.

3 (2)(a) A person who reports taxes under RCW 82.04.240(2) or who
4 claims an exemption or credit under RCW 82.04.426, 82.08.965,
5 82.12.965, 82.08.970, 82.12.970, sections 3 through 5 of this act,
6 82.04.448, or 84.36.645, shall make an annual report to the department
7 detailing employment, wages, and employer-provided health and
8 retirement benefits per job at the manufacturing site. The report
9 shall not include names of employees. The report shall also detail
10 employment by the total number of full-time, part-time, and temporary
11 positions. The first report filed under this subsection shall include
12 employment, wage, and benefit information for the twelve-month period
13 immediately before first use of a preferential tax rate under RCW
14 82.04.240(2), or tax exemption or credit under RCW 82.04.426,
15 82.08.965, 82.12.965, 82.08.970, 82.12.970, sections 3 through 5 of
16 this act, 82.04.448, or 84.36.645. The report is due by March 31st
17 following any year in which a preferential tax rate under RCW
18 82.04.240(2) is used, or tax exemption or credit under RCW 82.04.426,
19 82.08.965, 82.12.965, 82.08.970, 82.12.970, sections 3 through 5 of
20 this act, 82.04.448, or 84.36.645 is taken. This information is not
21 subject to the confidentiality provisions of RCW 82.32.330 and may be
22 disclosed to the public upon request.

23 (b) If a person fails to submit an annual report under (a) of this
24 subsection the department shall declare the amount of taxes exempted or
25 credited for that year to be immediately due and payable. Excise taxes
26 payable under this subsection are subject to interest, as provided
27 under this chapter. This information is not subject to the
28 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
29 public upon request.

30 (3) By November 1st of the year occurring five years after the
31 effective date of this act, and November 1st of the year occurring
32 eleven years after the effective date of this act, the fiscal
33 committees of the house of representatives and the senate, in
34 consultation with the department, shall report to the legislature on
35 the effectiveness of chapter 149, Laws of 2003 in regard to keeping
36 Washington competitive. The report shall measure the effect of chapter
37 149, Laws of 2003 on job retention, net jobs created for Washington
38 residents, company growth, diversification of the state's economy,

1 cluster dynamics, and other factors as the committees select. The
2 reports shall include a discussion of principles to apply in evaluating
3 whether the legislature should reenact any or all of the tax
4 preferences in chapter 149, Laws of 2003.

5 **Sec. 20.** RCW 82.32.600 and 2008 c 81 s 14 and 2008 c 15 s 8 are
6 each reenacted and amended to read as follows:

7 (1) Persons required to file annual surveys or annual reports under
8 RCW 82.04.4452, 82.32.535, 82.32.5351, 82.32.545, 82.32.610, 82.32.630,
9 82.82.020, or 82.74.040 must electronically file with the department
10 all surveys, reports, returns, and any other forms or information the
11 department requires in an electronic format as provided or approved by
12 the department. As used in this section, "returns" has the same
13 meaning as "return" in RCW 82.32.050.

14 (2) Any survey, report, return, or any other form or information
15 required to be filed in an electronic format under subsection (1) of
16 this section is not filed until received by the department in an
17 electronic format.

18 (3) The department may waive the electronic filing requirement in
19 subsection (1) of this section for good cause shown.

20 NEW SECTION. **Sec. 21.** A new section is added to chapter 82.08 RCW
21 to read as follows:

22 (1) A qualifying utility is entitled to a rebate of tax paid under
23 RCW 82.08.020 by it or any other person on machinery and equipment used
24 directly in generating electricity using wind as the principal source
25 of power, and sales of or charges made for labor and services rendered
26 in respect to installing such machinery and equipment, but only if such
27 machinery and equipment is part of a facility capable of generating at
28 least two hundred watts of electricity and such facility is owned or
29 operated by the qualifying utility at the time the rebate is claimed
30 under subsection (2) of this section.

31 (2) A qualifying utility may claim one-quarter of the rebate in the
32 calendar year in which the facility becomes operational and one-quarter
33 of the rebate in each successive calendar year. A qualifying utility
34 may claim the rebate by taking a credit against the tax levied under
35 RCW 82.16.020 or by filing a refund request with the department. The
36 rebate amount will not include interest.

1 (3)(a) "Qualifying utility" has the same meaning as provided in RCW
2 19.285.030.

3 (b) The definitions in RCW 82.08.02567 apply to this section.

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 82.12 RCW
5 to read as follows:

6 (1) A qualifying utility is entitled to a rebate of tax paid under
7 this chapter by it or any other person on machinery and equipment used
8 directly in generating electricity using wind as the principal source
9 of power, and sales of or charges made for labor and services rendered
10 in respect to installing such machinery and equipment, but only if such
11 machinery and equipment is part of a facility capable of generating at
12 least two hundred watts of electricity and such facility is owned or
13 operated by the qualifying utility at the time the rebate is claimed
14 under subsection (2) of this section.

15 (2) A qualifying utility may claim one-quarter of the rebate in the
16 calendar year in which the facility becomes operational and one-quarter
17 of the rebate in each successive calendar year. A qualifying utility
18 may claim the rebate by taking a credit against the tax levied under
19 RCW 82.16.020 or by filing a refund request with the department. The
20 rebate amount will not include interest.

21 (3) "Qualifying utility" has the same meaning as provided in RCW
22 19.285.030. The definitions in RCW 82.08.02567 apply to this section.

23 **Sec. 23.** 2006 c 300 s 12 (uncodified) is amended to read as
24 follows:

25 (1)(a) (~~This act and~~) Sections 16 and 19, chapter . . . , Laws of
26 2009 (sections 16 and 19 of this act), section 7, chapter 300, Laws of
27 2006, and section 4, chapter 149, Laws of 2003 are contingent upon the
28 siting and commercial operation of a significant semiconductor
29 microchip fabrication facility in the state of Washington.

30 (b) For the purposes of this section:

31 (i) "Commercial operation" means the same as "commencement of
32 commercial production" as used in RCW 82.08.965.

33 (ii) "Semiconductor microchip fabrication" means "manufacturing
34 semiconductor microchips" as defined in RCW 82.04.426.

35 (iii) "Significant" means the combined investment of new buildings

1 and new machinery and equipment in the buildings, at the commencement
2 of commercial production, will be at least one billion dollars.

3 (2) (~~This act~~) Chapter 149, Laws of 2003 takes effect the first
4 day of the month in which a contract for the construction of a
5 significant semiconductor fabrication facility is signed, as determined
6 by the director of the department of revenue.

7 (3)(a) The department of revenue (~~shall~~) must provide notice of
8 the effective date of this act to affected taxpayers, the legislature,
9 and others as deemed appropriate by the department.

10 (b) If, after making a determination that a contract has been
11 signed and (~~this act~~) chapter 149, Laws of 2003 is effective, the
12 department discovers that commencement of commercial production did not
13 take place within three years of the date the contract was signed, the
14 department (~~shall~~) must make a determination that (~~this act~~)
15 chapter 149, Laws of 2003 is no longer effective, and all taxes that
16 would have been otherwise due (~~shall be~~) are deemed deferred taxes
17 and are immediately assessed and payable from any person reporting tax
18 under RCW 82.04.240(2) or claiming an exemption or credit under section
19 2 or 5 through 10 (~~of this act~~), chapter 149, Laws of 2003. The
20 department is not authorized to make a second determination regarding
21 the effective date of (~~this act~~) chapter 149, Laws of 2003.

22 NEW SECTION. **Sec. 24.** Sections 12 and 13 of this act are
23 necessary for the immediate preservation of the public peace, health,
24 or safety, or support of the state government and its existing public
25 institutions, and take effect June 30, 2009.

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