

By Senator Ericksen

E2SHB 2346 - S COMM AMD

By Committee on Energy, Environment & Telecommunications

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
4 that stimulating local investment in distributed renewable energy
5 generation is an important part of a state energy strategy, helping
6 to increase energy independence from fossil fuels, promote economic
7 development, hedge against the effects of climate change, and attain
8 environmental benefits. The legislature intends to increase the
9 effectiveness of the existing renewable energy investment cost
10 recovery program by reducing the maximum incentive rate provided for
11 each kilowatt-hour of electricity generated by a renewable energy
12 system over the period of the program and by creating opportunities
13 for broader participation by low-income individuals and others who
14 may not own the premises where a renewable energy system may be
15 installed. The legislature intends to provide an incentive sufficient
16 to promote installation of systems through 2020, at which point the
17 legislature expects that the state's renewable energy industry will
18 be capable of sustained growth and vitality without the cost recovery
19 incentive.

20 (2) This section expires June 30, 2016, if the department of
21 ecology adopts, adopts with revisions, or enforces the proposed
22 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
23 WAC (reporting of emissions of greenhouse gases), published in the
24 Washington state register, WSR 16-02-101. The department of ecology
25 must provide notice of the expiration date of this section to
26 affected parties, the chief clerk of the house of representatives,
27 the secretary of the senate, the office of the code reviser, and
28 others as deemed appropriate by the department of ecology.

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

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

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

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

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

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

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

18 (b) Promote economic development through increasing and improving
19 investment in, development of, and use of clean energy technology in
20 Washington; and

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

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

29 (5) As part of its 2019 tax preference reviews conducted under
30 chapter 43.136 RCW, the joint legislative audit and review committee
31 must review the tax preferences and incentives in section 7 of this
32 act and RCW 82.16.130. The legislature intends for the legislative
33 auditor to determine that the incentive has achieved its desired
34 outcomes if the following objectives are achieved:

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

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

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

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

7 (6) In order to obtain the data necessary to perform the review,
8 the joint legislative audit and review committee may refer to data
9 collected by the Washington State University extension energy program
10 and may obtain employment data from the employment security
11 department.

12 (7) The Washington State University extension energy program
13 shall collect, through the application process, data from persons
14 claiming the tax credit under RCW 82.16.130 and persons receiving the
15 incentive payments created in section 7 of this act, as necessary,
16 and may collect data from other interested persons as necessary to
17 report on the performance of this act.

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

24 (9) This section expires June 30, 2016, if the department of
25 ecology adopts, adopts with revisions, or enforces the proposed
26 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
27 WAC (reporting of emissions of greenhouse gases), published in the
28 Washington state register, WSR 16-02-101. The department of ecology
29 must provide notice of the expiration date of this section to
30 affected parties, the chief clerk of the house of representatives,
31 the secretary of the senate, the office of the code reviser, and
32 others as deemed appropriate by the department of ecology.

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

35 (1)(a) Any individual, business, local governmental entity, not
36 in the light and power business or in the gas distribution business,
37 or a participant in a community solar project may apply to the light
38 and power business serving the situs of the system, each fiscal year
39 beginning on July 1, 2005, and ending June 30, 2016, for an

1 investment cost recovery incentive for each kilowatt-hour from a
2 customer-generated electricity renewable energy system.

3 (b) In the case of a community solar project as defined in RCW
4 82.16.110(2)(a)(i), the administrator must apply for the investment
5 cost recovery incentive on behalf of each of the other owners.

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

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

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

20 (c) The certification must include:

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 certification 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 certification
29 must also include the name and address of each member of the company;

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

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

34 (A) Any solar inverters and solar modules manufactured in
35 Washington state;

36 (B) A wind generator powered by blades manufactured in Washington
37 state;

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

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

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

1 (F) Solar or wind equipment manufactured outside of Washington
2 state;

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

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

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

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

23 (i) The name and address of the applicant and location of the
24 renewable energy system.

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

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

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

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

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

38 (b) Within sixty days of receipt of the incentive certification
39 the light and power business serving the situs of the system must
40 notify the applicant in writing whether the incentive payment will be

1 authorized or denied. The business may consult with the climate and
2 rural energy development center to determine eligibility for the
3 incentive payment. Incentive certifications and the information
4 contained therein are not confidential tax information under RCW
5 82.32.330 and are subject to disclosure (~~under RCW~~
6 ~~82.32.330(3)(1)~~)).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 ~~((8))~~ (7) The environmental attributes of the renewable energy
38 system belong to the applicant, and do not transfer to the state or
39 the light and power business upon receipt of the investment cost
40 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 (10) Section 3, chapter . . . , Laws of 2016 (section 3 of this
12 act) expires June 30, 2016, if the department of ecology adopts,
13 adopts with revisions, or enforces the proposed chapter 173-442 WAC
14 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
15 emissions of greenhouse gases), published in the Washington state
16 register, WSR 16-02-101. The department of ecology must provide
17 notice of the expiration date of section 3, chapter . . . , Laws of
18 2016 (section 3 of this act) to affected parties, the chief clerk of
19 the house of representatives, the secretary of the senate, the office
20 of the code reviser, and others as deemed appropriate by the
21 department of ecology.

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

24 (1) The legislature intends to allow participants in the
25 renewable energy investment cost recovery program under RCW 82.16.120
26 to continue to receive payments for electricity produced through June
27 2020, at the rates they anticipated when they first received notice
28 of eligibility from the department under RCW 82.16.120, unless and
29 until requests for the incentive under RCW 82.16.120, this section,
30 and section 7 of this act cumulatively exceed the amount of funds
31 available for credit under RCW 82.16.130, as amended by this act.

32 (2) A person or community solar project administrator who has,
33 before June 1, 2016, submitted a complete certification to the
34 department under RCW 82.16.120(2) may apply to the Washington State
35 University extension energy program to receive a certification
36 authorizing the utility serving the situs of the renewable energy
37 system to remit an investment cost recovery incentive for each
38 kilowatt-hour generated by the renewable energy system beginning July
39 1, 2016, and ending June 30, 2020.

1 (a) The person or community solar project administrator must
2 submit the application to the Washington State University extension
3 energy program before July 15, 2016, or within fifteen days of
4 receiving a notice of eligibility from the department under RCW
5 82.16.120, whichever is later.

6 (b) The Washington State University extension energy program must
7 review the data provided by the department under RCW 82.16.120(2) and
8 the application requirements under section 7(7) of this act and
9 establish an application process by which to collect system operation
10 data including global positioning system coordinates, tilt, shading,
11 and azimuth, and any additional information that it requires in order
12 to issue the certification under this section. The Washington State
13 University extension energy program must notify participants that
14 providing such additional information is a condition of retaining
15 certification to receive any payments otherwise due from utilities
16 under this section beginning with the program year ending June 30,
17 2017.

18 (3) The Washington State University extension energy program must
19 assess a fee of up to seventy-five dollars per applicant under this
20 section. The fee must be deducted by each participating utility from
21 the incentive payments due to such customers for the program year
22 ending June 30, 2016, and must be remitted by the utility to the
23 Washington State University extension energy program by September 30,
24 2016. The Washington State University extension energy program must
25 deposit all revenue generated by this fee into the state general
26 fund.

27 (4) This section expires June 30, 2016, if the department of
28 ecology adopts, adopts with revisions, or enforces the proposed
29 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
30 WAC (reporting of emissions of greenhouse gases), published in the
31 Washington state register, WSR 16-02-101. The department of ecology
32 must provide notice of the expiration date of this section to
33 affected parties, the chief clerk of the house of representatives,
34 the secretary of the senate, the office of the code reviser, and
35 others as deemed appropriate by the department of ecology.

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

38 (1) A light and power business shall be allowed a credit against
39 taxes due under this chapter in an amount equal to (~~investment cost~~

1 ~~recovery~~) incentive payments made in any fiscal year under RCW
2 82.16.120 and section 7 of this act.

3 (2) The credits (~~(shall)~~) must be taken in a form and manner as
4 required by the department. The credit under this section for the
5 fiscal year may not exceed (~~(one-half)~~) two percent of the
6 businesses' taxable power sales generated in calendar year 2014 and
7 due under RCW 82.16.020(1)(b) or (~~(one)~~) two hundred fifty thousand
8 dollars, whichever is greater. Incentive payments to participants in
9 a (~~(utility-owned)~~) community solar project (~~(as defined in RCW~~
10 82.16.110(2)(a)(ii)) may only account for up to twenty-five percent
11 of the total allowable credit. Incentive payments (~~(to participants~~
12 in a company-owned community solar project as defined in RCW
13 82.16.110(2)(a)(iii) may only account for up to five percent of the
14 total)) for electricity produced by commercial-scale systems may only
15 account for up to twenty-five percent of the allowable credit.

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

20 (~~(+2)~~) (4) For any business that has claimed credit for amounts
21 that exceed the correct amount of the incentive payable under RCW
22 82.16.120, the amount of tax against which credit was claimed for the
23 excess payments shall be immediately due and payable. The department
24 may deduct amounts due from future credits claimed by the business.

25 (a) Except as provided in (b) of this subsection, the department
26 (~~(shall)~~) must assess interest but not penalties on the taxes against
27 which the credit was claimed. Interest (~~(shall)~~) must be assessed at
28 the rate provided for delinquent excise taxes under chapter 82.32
29 RCW, retroactively to the date the credit was claimed, and (~~(shall)~~)
30 accrues until the taxes against which the credit was claimed are
31 repaid.

32 (~~(+3)~~) (b) A business is not liable for excess payments made in
33 reliance on amounts reported by the Washington State University
34 extension energy program as due and payable as provided under section
35 7(19) of this act, if such amounts are later found to be abnormal or
36 inaccurate due to no fault of the business.

37 (5) The amount of credit taken under this section is not
38 confidential taxpayer information under RCW 82.32.330 and is subject
39 to disclosure.

1 (6) The right to earn tax credits under this section expires June
2 30, (~~(2020)~~) 2030. Credits may not be claimed after June 30, (~~(2021)~~)
3 2031.

4 (7) Section 5, chapter . . . , Laws of 2016 (section 5 of this
5 act) expires June 30, 2016, if the department of ecology adopts,
6 adopts with revisions, or enforces the proposed chapter 173-442 WAC
7 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
8 emissions of greenhouse gases), published in the Washington state
9 register, WSR 16-02-101. The department of ecology must provide
10 notice of the expiration date of section 5, chapter . . . , Laws of
11 2016 (section 5 of this act) to affected parties, the chief clerk of
12 the house of representatives, the secretary of the senate, the office
13 of the code reviser, and others as deemed appropriate by the
14 department of ecology.

15 NEW SECTION. Sec. 6. A new section is added to chapter 82.16
16 RCW to read as follows:

17 (1) The definitions in this section apply throughout this section
18 and sections 7 and 8 of this act unless the context clearly requires
19 otherwise.

20 (a) "Certification" means the authorization issued by the
21 Washington State University extension energy program establishing a
22 person's eligibility to receive annual incentive payments from the
23 person's utility for a term of ten years.

24 (b) "Commercial-scale system" means a renewable energy system or
25 systems other than a community solar project with a combined
26 nameplate capacity greater than twelve kilowatts that meets the
27 applicable system eligibility requirements established in section 7
28 of this act.

29 (c) "Community solar project" means a solar energy system that
30 has a direct current nameplate generating capacity that is no larger
31 than five hundred kilowatts and meets the applicable eligibility
32 requirements established in sections 7 and 8 of this act.

33 (d) "Community solar program" means a program organized and
34 administered by a utility or a nonprofit organization to develop
35 community solar projects pursuant to section 8 of this act.

36 (e) "Consumer-owned utility" has the same meaning as in RCW
37 19.280.020.

38 (f) "Customer-owner" means the owner of a residential-scale or
39 commercial-scale renewable energy system, where such owner is not a

1 utility and such owner either owns the premises where the renewable
2 energy system is installed or occupies the premises.

3 (g) "Nonprofit organization" means an entity or organization that
4 is exempt from taxation under section 501(c)(3) of the internal
5 revenue code.

6 (h) "Person" means any individual, firm, partnership,
7 corporation, company, association, agency, or any other legal entity.

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

11 (j) "Residential-scale system" means a renewable energy system or
12 systems located at a single situs with combined nameplate capacity of
13 twelve kilowatts or less that meets the applicable system eligibility
14 requirements established in section 7 of this act.

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

17 (2) This section expires June 30, 2016, if the department of
18 ecology adopts, adopts with revisions, or enforces the proposed
19 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
20 WAC (reporting of emissions of greenhouse gases), published in the
21 Washington state register, WSR 16-02-101. The department of ecology
22 must provide notice of the expiration date of this section to
23 affected parties, the chief clerk of the house of representatives,
24 the secretary of the senate, the office of the code reviser, and
25 others as deemed appropriate by the department of ecology.

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 (29) This section expires June 30, 2016, if the department of
22 ecology adopts, adopts with revisions, or enforces the proposed
23 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
24 WAC (reporting of emissions of greenhouse gases), published in the
25 Washington state register, WSR 16-02-101. The department of ecology
26 must provide notice of the expiration date of this section to
27 affected parties, the chief clerk of the house of representatives,
28 the secretary of the senate, the office of the code reviser, and
29 others as deemed appropriate by the department of ecology.

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

32 (1) The purpose of the community solar project is to facilitate
33 broad, equitable community investment in and access to solar power.
34 Beginning July 1, 2016, a utility or nonprofit organization may
35 organize and administer a community solar project as provided in this
36 section.

37 (2) A community solar project must have a direct current
38 nameplate capacity that is no more than five hundred kilowatts and
39 must have at least ten participants. Except for community solar

1 projects authorized under subsection (5) of this section, each
2 participant must be a customer of the utility providing service at
3 the situs of the community solar project.

4 (3) A utility or nonprofit administrator of a community solar
5 project must administer the project in a transparent manner that
6 allows for fair and nondiscriminatory opportunity for participation
7 by utility customers.

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

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

25 (6) This section expires June 30, 2016, if the department of
26 ecology adopts, adopts with revisions, or enforces the proposed
27 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
28 WAC (reporting of emissions of greenhouse gases), published in the
29 Washington state register, WSR 16-02-101. The department of ecology
30 must provide notice of the expiration date of this section to
31 affected parties, the chief clerk of the house of representatives,
32 the secretary of the senate, the office of the code reviser, and
33 others as deemed appropriate by the department of ecology.

34 NEW SECTION. **Sec. 9.** (1) The legislature finds that a
35 convenient, safe, and environmentally sound system for the recycling
36 of solar modules, minimization of hazardous waste, and recovery of
37 commercially valuable materials must be established. The legislature
38 further finds that the responsibility for this system must be shared
39 among all stakeholders.

1 (2) The department must develop guidance for a solar module
2 stewardship and takeback program to guide manufacturers in preparing
3 and implementing a self-directed program to ensure the convenient,
4 safe, and environmentally sound takeback and recycling of solar
5 modules and their components and materials. By January 1, 2017, the
6 department must establish a process to develop guidance for a solar
7 module stewardship and takeback program by working with
8 manufacturers, stewardship organizations, and other stakeholders and
9 report back to the legislature with recommendations for stewardship
10 plan guidance by January 1, 2018. Recommendations may include an
11 adequate funding mechanism to finance the costs of collection,
12 management, and recycling of solar modules and residuals sold in or
13 into the state; whether national programs are available that offer
14 environmentally sound takeback and recycling of solar modules and
15 their components and materials; reporting requirements; a penalty
16 process; and reasonable fees to fund the department of ecology's
17 costs of administering a solar module recycling program.

18 (3) This section expires June 30, 2016, if the department of
19 ecology adopts, adopts with revisions, or enforces the proposed
20 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
21 WAC (reporting of emissions of greenhouse gases), published in the
22 Washington state register, WSR 16-02-101. The department of ecology
23 must provide notice of the expiration date of this section to
24 affected parties, the chief clerk of the house of representatives,
25 the secretary of the senate, the office of the code reviser, and
26 others as deemed appropriate by the department of ecology.

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

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

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

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

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

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

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

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

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

36 (ii) "Machinery and equipment" does not include: (A) Hand-powered
37 tools; (B) property with a useful life of less than one year; (C)
38 repair parts required to restore machinery and equipment to normal
39 working order; (D) replacement parts that do not increase
40 productivity, improve efficiency, or extend the useful life of

1 machinery and equipment; (E) buildings; or (F) building fixtures that
2 are not integral and necessary to the generation of electricity that
3 are permanently affixed to and become a physical part of a building.

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

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

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

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

39 (5) The exemption provided by this section expires June 30, 2016,
40 as it applies to: (a) Machinery and equipment that is used directly

1 in the generation of electricity using solar energy and capable of
2 generating no more than five hundred kilowatts of electricity; or (b)
3 sales of or charges made for labor and services rendered in respect
4 to installing such machinery and equipment.

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

6 (7) Section 10, chapter . . ., Laws of 2016 (section 10 of this
7 act) expires June 30, 2016, if the department of ecology adopts,
8 adopts with revisions, or enforces the proposed chapter 173-442 WAC
9 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
10 emissions of greenhouse gases), published in the Washington state
11 register, WSR 16-02-101. The department of ecology must provide
12 notice of the expiration date of section 10, chapter . . ., Laws of
13 2016 (section 10 of this act) to affected parties, the chief clerk of
14 the house of representatives, the secretary of the senate, the office
15 of the code reviser, and others as deemed appropriate by the
16 department of ecology.

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

19 (1) The tax levied by RCW 82.08.020 does not apply to sales of
20 machinery and equipment used directly in generating electricity or
21 producing thermal heat using solar energy, or to sales of or charges
22 made for labor and services rendered in respect to installing such
23 machinery and equipment, but only if the purchaser develops with such
24 machinery, equipment, and labor a facility capable of generating not
25 more than ten kilowatts of electricity or producing not more than
26 three million British thermal units per day and provides the seller
27 with an exemption certificate in a form and manner prescribed by the
28 department. The seller must retain a copy of the certificate for the
29 seller's files. For sellers who electronically file their taxes, the
30 department must provide a separate tax reporting line for exemption
31 amounts claimed by a buyer under this section.

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

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

37 (b) "Machinery and equipment" does not include: (i) Hand-powered
38 tools; (ii) property with a useful life of less than one year; (iii)
39 repair parts required to restore machinery and equipment to normal

1 working order; (iv) replacement parts that do not increase
2 productivity, improve efficiency, or extend the useful life of
3 machinery and equipment; (v) buildings; or (vi) building fixtures
4 that are not integral and necessary to the generation of electricity
5 that are permanently affixed to and become a physical part of a
6 building;

7 (c) Machinery and equipment is "used directly" in generating
8 electricity with solar energy if it provides any part of the process
9 that captures the energy of the sun, converts that energy to
10 electricity, and stores, transforms, or transmits that electricity
11 for entry into or operation in parallel with electric transmission
12 and distribution systems; and

13 (d) Machinery and equipment is "used directly" in producing
14 thermal heat with solar energy if it uses a solar collector or a
15 solar hot water system that (i) meets the certification standards for
16 solar collectors and solar hot water systems developed by the solar
17 rating and certification corporation; or (ii) is determined by the
18 Washington State University extension whether a solar collector or
19 solar hot water system is an equivalent collector or system.

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

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

26 (5) Section 11, chapter . . ., Laws of 2016 (section 11 of this
27 act) expires June 30, 2016, if the department of ecology adopts,
28 adopts with revisions, or enforces the proposed chapter 173-442 WAC
29 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
30 emissions of greenhouse gases), published in the Washington state
31 register, WSR 16-02-101. The department of ecology must provide
32 notice of the expiration date of section 11, chapter . . ., Laws of
33 2016 (section 11 of this act) to affected parties, the chief clerk of
34 the house of representatives, the secretary of the senate, the office
35 of the code reviser, and others as deemed appropriate by the
36 department of ecology.

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

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

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

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

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

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

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

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

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

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

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

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

19 (7) Section 12, chapter . . ., Laws of 2016 (section 12 of this
20 act) expires June 30, 2016, if the department of ecology adopts,
21 adopts with revisions, or enforces the proposed chapter 173-442 WAC
22 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
23 emissions of greenhouse gases), published in the Washington state
24 register, WSR 16-02-101. The department of ecology must provide
25 notice of the expiration date of section 12, chapter . . ., Laws of
26 2016 (section 12 of this act) to affected parties, the chief clerk of
27 the house of representatives, the secretary of the senate, the office
28 of the code reviser, and others as deemed appropriate by the
29 department of ecology.

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

32 (1) The provisions of this chapter do not apply with respect to
33 machinery and equipment used directly in generating not more than ten
34 kilowatts of electricity or producing not more than three million
35 British thermal units per day using solar energy, or to the use of
36 labor and services rendered in respect to installing such machinery
37 and equipment.

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

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

1 (a) To the use of machinery and equipment used directly in the
2 generation of electricity using solar energy, or to the use of labor
3 and services rendered in respect to installing such machinery and
4 equipment, when first use within this state of such machinery and
5 equipment, or labor and services, occurs after June 30, 2016; and

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

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

12 (5) Section 13, chapter . . ., Laws of 2016 (section 13 of this
13 act) expires June 30, 2016, if the department of ecology adopts,
14 adopts with revisions, or enforces the proposed chapter 173-442 WAC
15 (clean air rule) or amendments to chapter 173-441 WAC (reporting of
16 emissions of greenhouse gases), published in the Washington state
17 register, WSR 16-02-101. The department of ecology must provide
18 notice of the expiration date of section 13, chapter . . ., Laws of
19 2016 (section 13 of this act) to affected parties, the chief clerk of
20 the house of representatives, the secretary of the senate, the office
21 of the code reviser, and others as deemed appropriate by the
22 department of ecology.

23 NEW SECTION. Sec. 14. A new section is added to chapter 82.16
24 RCW to read as follows:

25 (1) Any person who sells a solar module to a customer-owner, or
26 who receives compensation from a customer-owner in exchange for
27 installing a solar module for use in a residential-scale system or
28 commercial-scale system in Washington must provide to the customer-
29 owner current information regarding the tax incentives available to
30 the customer-owner under Washington law, including the scheduled
31 expiration date of any tax incentives and the maximum period of time
32 during which the customer-owner may benefit from any tax incentives,
33 based on the law as it existed on the date of sale or installation of
34 the solar module.

35 (2) The definitions in section 6 of this act apply to this
36 section.

37 (3) For the purposes of this section, "solar module" has the same
38 meaning as defined in RCW 82.16.110.

1 (4) The legislature finds that the practices covered by this
2 section are matters vitally affecting the public interest for the
3 purpose of applying the consumer protection act, chapter 19.86 RCW. A
4 violation of this section is not reasonable in relation to the
5 development and preservation of business, is an unfair or deceptive
6 act or practice in the conduct of trade or commerce and an unfair
7 method of competition, and may be enforced by the attorney general
8 under the consumer protection act, chapter 19.86 RCW.

9 (5) This section expires June 30, 2016, if the department of
10 ecology adopts, adopts with revisions, or enforces the proposed
11 chapter 173-442 WAC (clean air rule) or amendments to chapter 173-441
12 WAC (reporting of emissions of greenhouse gases), published in the
13 Washington state register, WSR 16-02-101. The department of ecology
14 must provide notice of the expiration date of this section to
15 affected parties, the chief clerk of the house of representatives,
16 the secretary of the senate, the office of the code reviser, and
17 others as deemed appropriate by the department of ecology.

18 NEW SECTION. **Sec. 15.** Section 9 of this act constitutes a new
19 chapter in Title 70 RCW.

20 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of
22 the state government and its existing public institutions, and takes
23 effect immediately."

E2SHB 2346 - S COMM AMD

By Committee on Energy, Environment & Telecommunications

24 On page 1, line 4 of the title, after "recycling;" strike the
25 remainder of the title and insert "amending RCW 82.16.120, 82.16.130,
26 82.08.962, 82.08.963, 82.12.962, and 82.12.963; adding new sections
27 to chapter 82.16 RCW; adding a new chapter to Title 70 RCW; creating
28 a new section; providing contingent expiration dates; and declaring
29 an emergency."

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