
HOUSE BILL 1927

State of Washington

64th Legislature

2015 Regular Session

By Representatives Fey and Smith

Read first time 02/03/15. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to distributed generation; amending RCW
2 82.16.120, 80.28.005, 82.08.963, 82.12.963, 82.08.962, 82.12.962,
3 80.60.005, 80.60.020, 80.60.030, and 80.60.040; adding a new section
4 to chapter 82.16 RCW; adding new sections to chapter 80.28 RCW;
5 adding a new chapter to Title 80 RCW; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires
9 otherwise.

10 (1) "Consumer-owned utility" has the same meaning as defined in
11 RCW 19.280.020.

12 (2) "Customer generator" means a residential or commercial
13 customer of an electric utility who owns a solar energy system,
14 irrespective of whether the ownership is subject to a security
15 interest, where the solar energy system is:

16 (a) Located on the customer's premises, irrespective of whether
17 the premises are leased or owned by the customer;

18 (b) Connected to the customer's wiring on the customer's side of
19 a meter interconnecting the solar energy system with the utility
20 grid; and

21 (c) Sized to meet all or a portion of the customer's load.

1 (3) "Electric utility" has the same meaning as provided in RCW
2 80.28.005. "Electric utility" does not include the subsidiary or
3 affiliate of an electric utility, where such a subsidiary or
4 affiliate must be registered as a solar energy service company with
5 the commission, as provided in chapter 80.28 RCW.

6 (4) "Electrical company" has the same meaning as defined in RCW
7 80.04.010.

8 (5) "Meter" means an electricity production measurement device.

9 (6) "Nameplate capacity" means the direct current nameplate
10 capacity, representing the power output of the solar energy system
11 under ideal conditions.

12 (7) "Nonprofit organization" means an entity that is exempt from
13 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
14 revenue code of 1986, as amended, as of January 1, 2015.

15 (8) "Photovoltaic cell" means a device that converts light
16 directly into electricity without moving parts.

17 (9) "Program administrator" means the state agency, to be
18 designated by the governor, with responsibility for implementing the
19 solar production incentive program created in this chapter.

20 (10) "Solar energy service company" has the same meaning as
21 defined in RCW 80.28.005.

22 (11) "Solar energy services" has the same meaning as defined in
23 RCW 80.28.005.

24 (12) "Solar energy system" means a device or combination of
25 devices or elements that rely upon direct sunlight as an energy
26 source for use in the generation of electricity.

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

30 NEW SECTION. **Sec. 2.** (1) A solar production incentive program
31 is created within the program administrator for the purposes of:

32 (a) Increasing installation of solar energy systems in the state,
33 with the goals of achieving one hundred fifty megawatts of additional
34 installed solar power nameplate capacity statewide by 2024;

35 (b) Encouraging broader market participation; and

36 (c) Facilitating development of a solar industry whose
37 manufacturing and installation practices are both economically and
38 environmentally sustainable.

1 (2)(a) Each electric utility providing service to retail
2 residential or commercial customers in Washington may elect to
3 participate or terminate participation in the solar production
4 incentive program at any time, consistent with the requirements of
5 this section and the rules, policies, and procedures of the program
6 administrator.

7 (b) A utility's election to terminate participation in the solar
8 production incentive program does not relieve the utility's
9 obligations with respect to solar energy systems already certified
10 during the utility's participation in the program.

11 (3)(a) Beginning January 1, 2016, and until December 31, 2023, a
12 utility customer, utility, or nonprofit organization may apply to the
13 program administrator for certification to receive, from the utility
14 to which an eligible solar energy system is interconnected, an annual
15 production incentive payment for each kilowatt-hour of alternating
16 current electricity produced by the solar energy system during each
17 of the first ten years after the system commences operation, at a
18 rate per kilowatt-hour established at the time of certification.

19 (b) A system commences operation on the date of system
20 certification under this subsection (3) or the date of issuance of
21 the final electrical permit for the system, whichever comes last.

22 (c) The incentive rate that the applicant is eligible to receive
23 varies across five program types, which vary based on the ownership
24 model and scale of the solar energy system, as provided in sections 3
25 through 7 of this act.

26 (d) The incentive rate an applicant receives at the time of
27 certification must remain unchanged each year that the applicant is
28 eligible to receive incentive payments, unless otherwise provided by
29 law.

30 (4) The program administrator may grant certification to the
31 applicant if the applicant meets the eligibility requirements
32 established in sections 1 through 8 of this act. Certification by the
33 program administrator is subject to approval by the utility and
34 contingent upon completion of a valid interconnection agreement for
35 the renewable energy system with the utility serving the situs of the
36 system.

37 (5) No person may receive an incentive payment under this section
38 for electricity generated by a solar energy system located at the
39 same residential address as a renewable energy system that received
40 incentive payments under RCW 82.16.120. Participation in the

1 incentive program under RCW 82.16.120 does not disqualify a person
2 from receiving payments under this section for a solar energy system
3 located at a different address.

4 (6) The program administrator, in consultation with the
5 department of revenue, shall determine the form and manner of the
6 certification application. The program administrator may establish
7 and modify application fees, which may vary by project size or type.

8 (7)(a) The program administrator, in consultation with the
9 attorney general and the commission, shall develop a template for
10 ensuring that customers receive standard consumer information
11 regarding financial terms and the respective rights and
12 responsibilities of all parties involved in a contract for the sale
13 or installation of a solar energy system or the provision of solar
14 energy services.

15 (b) The financial terms specified in the template should include
16 those terms as deemed reasonably necessary for the customer to
17 understand and make an informed decision to enter the business deal,
18 such as:

19 (i) Monthly or annual production performance guarantee or range
20 of performance;

21 (ii) System size;

22 (iii) Whether there is a down payment and, if so, the amount;

23 (iv) Monthly payments or cost per kilowatt-hour produced;

24 (v) Length of contract term;

25 (vi) Escalation rates or schedule of payment amounts; and

26 (vii) Total expenditure or range of expenditures, or effective
27 annual interest rate, over the term of the agreement.

28 (c) Rights and responsibilities specified should include, but are
29 not limited to, a customer's rights and responsibilities when selling
30 the solar energy system as part of a sale of real property, as
31 described in section 18 of this act, including responsibility for
32 system removal costs, disposal of the system, and remaining monthly
33 payments.

34 (d) The template must be filled out by any solar installation
35 company that contracts with a customer to install a solar energy
36 system, and by any solar energy system owner who enters a consumer
37 contract with the customer for solar energy services, whether the
38 owner is a solar energy service company or an electric utility.

39 (e) The applicant must submit the completed template or templates
40 with the certification application.

1 (8) Nothing in this chapter, including potential eligibility for
2 production incentives of systems more than one hundred kilowatts in
3 nameplate capacity, may be construed as altering the eligibility of a
4 solar energy system for net metering under chapter 80.60 RCW. For
5 solar energy systems with a nameplate capacity of one hundred
6 kilowatts or greater that are subject to requirements for qualifying
7 facilities established by the Public Utility Regulatory Policies Act
8 (16 U.S.C. chapter 46, Sec. 2601 et seq.), as amended as of January
9 1, 2015, an applicant is not eligible to receive certification under
10 this section unless the applicant demonstrates compliance with any
11 requirements to which the solar energy facility is subject and not
12 exempt, including providing a copy of any required power purchase
13 agreement with the utility.

14 (9) At the time of certification, the program administrator shall
15 inform the applicant and the utility:

16 (a) That certification is subject to approval by the utility,
17 including completion of a valid interconnection agreement with the
18 utility;

19 (b) That the applicant is encouraged to consult with the utility
20 serving the premises early in the application process, to determine
21 the utility's requirements for interconnection and criteria for
22 customer participation in the incentive program;

23 (c) Of the rate of incentive payment at which the applicant is
24 entitled to receive production payments as provided in sections 3
25 through 7 of this act;

26 (d) Whether the solar energy system qualifies to receive the
27 additional incentive for "clean made" solar modules;

28 (e) Whether the utility has opted to perform and submit to the
29 program administrator the annual meter reading, or whether this is a
30 responsibility of the applicant, and, if the latter, of the date on
31 which the meter reading must take place;

32 (f) Of any other steps the applicant must take in order to claim
33 the annual incentive provided pursuant to the certification; and

34 (g) That the certification is valid for a system that is placed
35 into service within six months of the certification notice provided
36 under this subsection (9).

37 (10) Notice of certification must be issued to the applicant, the
38 utility, and the department of revenue within thirty days of the
39 program administrator's receipt of a complete application.

1 (11) Applications, certifications, and annual payments made under
2 this section are public records subject to chapter 42.56 RCW and are
3 not tax information for purposes of RCW 82.32.330(3).

4 (12)(a) The solar energy system must commence operation and be
5 placed into service within six months of the system certification. If
6 an applicant who has received certification for a solar energy system
7 is unable to place the system into service within the six-month
8 period, the applicant must apply for a new certification and the
9 certification may reflect lower per kilowatt-hour incentive rates
10 effective at the time of the later certification.

11 (b) The utility must notify the program administrator of the date
12 that a certified solar energy system commences operation, within
13 thirty days of that date.

14 (13) Except as provided in subsection (14) of this section, the
15 applicant, once certified, must make the annual request for incentive
16 payment in a form and manner determined by the program administrator.

17 (a) The annual request must include at a minimum:

18 (i) A report of the annual alternating current electricity
19 production of the solar energy system, as measured in gross kilowatt-
20 hours and as determined by a meter connected to the solar energy
21 system; and

22 (ii) Any other information required by the program administrator
23 for monitoring progress in reaching the program goals and funding
24 limits established under this chapter.

25 (b) The program administrator shall determine the amount of
26 annual incentive payable for each request and shall periodically
27 issue to each utility the list of requests and the applicable annual
28 incentive payments to be made by the utility. The utility must issue
29 the incentive payment to its customer or credit the customer's
30 account within thirty days of receiving the list from the program
31 administrator.

32 (14) A utility may notify the program administrator that, in lieu
33 of the process described in subsection (13) of this section, the
34 utility opts to perform the required meter reading and determine
35 annual payments based on this meter reading.

36 (a) A utility adopting the process described in this subsection
37 (14) shall provide the program administrator a description of the
38 utility's alternate process, including the timeline and schedule for
39 issuing payments to participants or crediting participants' utility
40 bills.

1 (b) The utility shall determine who will perform the annual meter
2 read, determine annual payments based on the rates established in the
3 certification, and, periodically and no less than annually, submit
4 the meter readings and payment information to the program
5 administrator.

6 (c) The program administrator shall ensure that a description of
7 the utility's process is included with any certifications issued to a
8 customer of that utility.

9 (d) Annual incentive payments must be issued in a timely manner
10 and in accordance with the process description provided to the
11 program administrator.

12 (15) The program administrator shall create a publicly available
13 web site and shall make information available to the public
14 including, but not limited to:

15 (a) A list of utilities that have elected to participate in the
16 solar production incentive program;

17 (b) Progress toward achieving the desired installation goal of
18 one hundred fifty megawatts cumulative solar energy system nameplate
19 capacity;

20 (c) The amount of nameplate capacity available that has not yet
21 been committed to existing participants and remains available for new
22 participants in the program;

23 (d) For each utility participating in the program, the following
24 information: The number of solar energy systems installed under
25 sections 3 through 7 of this act, installed system nameplate
26 capacity, and installed system electricity production data; and

27 (e) Any other information deemed necessary to facilitate market
28 participation and notify participants and prospective participants of
29 pending changes in the incentive rates available.

30 (16)(a) The program administrator shall, in consultation with the
31 department of commerce, develop technical specifications and
32 guidelines to ensure consistent determination of whether the
33 applicant is entitled to the additional "clean made" solar incentive
34 payments.

35 (b) A solar energy system is eligible for an additional "clean
36 made" solar incentive payment, as provided in section 3, 4, 6, or 7
37 of this act, only if each solar photovoltaic module in the solar
38 energy system has been manufactured with clean energy.

39 (c) For the purposes of this subsection:

1 (i) "Clean energy" means that the actual or imputed source of
2 electricity used by the manufacturer in manufacturing the module has
3 a carbon-free fuel mix percentage that is no less than forty-five
4 percent; and

5 (ii) "Fuel mix" has the meaning provided in RCW 19.29A.010.

6 (d) A manufacturer or applicant may obtain a determination from
7 the program administrator that a solar energy system has been
8 manufactured with clean energy upon submitting sufficient
9 documentation to demonstrate that the fuel mix of the electricity
10 used in manufacturing the system's solar modules meets the standard
11 specified in (c) of this subsection. The program administrator must
12 notify the applicant whether the program administrator already has
13 sufficient documentation to make this determination or requires
14 additional fuel mix disclosure documentation.

15 (e) Any technical specifications or guidelines developed under
16 this section must be made publicly available online.

17 (17) Certifications issued under this section follow the solar
18 energy system and are transferrable to a utility customer who
19 purchases an existing solar energy system as part of a transfer of
20 property ownership, provided that the utility customer purchasing the
21 system completes an interconnection application and agreement with
22 the utility and submits a copy of this agreement to the program
23 administrator.

24 (18) Upon determination that solar energy systems with cumulative
25 nameplate capacity of one hundred fifty megawatts have been certified
26 under this chapter, the program administrator shall cease to issue
27 new certifications.

28 (19) By October 31st each year, the program administrator shall
29 report to the legislature on the utilization of the production
30 incentive, average installed system costs, and any recommendations
31 that would improve the administration and effectiveness of the
32 program.

33 NEW SECTION. **Sec. 3.** (1) Beginning January 1, 2016, the program
34 administrator may certify a customer generator as eligible to receive
35 a residential-scale solar production incentive for alternating
36 current electricity generated by a solar energy system installed on
37 the customer's side of a utility meter that has a nameplate capacity
38 of ten kilowatts or less, as provided by this section.

1 (2) For the first twenty megawatts of solar energy system
2 nameplate capacity cumulatively certified under this section:

3 (a) The incentive rate is twenty cents per kilowatt-hour.

4 (b) An additional "clean made" incentive payment of ten cents per
5 kilowatt-hour is available if the program administrator determines
6 that the solar energy system meets the technical specifications and
7 guidelines established in section 2(16) of this act.

8 (3) After twenty megawatts and until forty megawatts of nameplate
9 capacity have been cumulatively certified under this section:

10 (a) The program administrator may establish an incentive rate for
11 new certifications equal to or less than the rate described in
12 subsection (2)(a) of this section, as provided in section 8 of this
13 act.

14 (b) An additional "clean made" incentive payment of five cents
15 per kilowatt-hour is available if the program administrator
16 determines that the solar energy system meets the technical
17 specifications and guidelines established in section 2(16) of this
18 act.

19 (4) After forty megawatts of nameplate capacity have been
20 certified in this section:

21 (a) The program administrator may establish an incentive rate
22 equal to or less than the rate described in subsection (2)(a) of this
23 section, as provided in section 8 of this act.

24 (b) No additional "clean made" incentive payment may be made
25 available.

26 NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2016, the program
27 administrator may certify a customer generator as eligible to receive
28 a commercial-scale solar production incentive for alternating current
29 electricity generated by a solar energy system installed on the
30 customer's side of a utility meter with a nameplate capacity that is
31 more than ten kilowatts and no more than two hundred kilowatts, as
32 provided by this section.

33 (2) For the first twenty megawatts of a solar energy system's
34 nameplate capacity cumulatively certified under this section:

35 (a) The incentive rate for solar energy systems of nameplate
36 capacity more than ten kilowatts and up to fifty kilowatts is sixteen
37 cents per kilowatt-hour. An additional "clean made" incentive payment
38 of twelve cents per kilowatt-hour is available if the program
39 administrator determines that the solar energy system meets the

1 technical specifications and guidelines established in section 2(16)
2 of this act.

3 (b) The incentive rate for solar energy systems of nameplate
4 capacity fifty kilowatts or greater is fourteen cents per kilowatt-
5 hour. An additional "clean made" incentive payment of seven cents per
6 kilowatt-hour is available if the program administrator determines
7 that the solar energy system meets the technical specifications and
8 guidelines established in section 2(16) of this act.

9 (3) After twenty megawatts of nameplate capacity have been
10 cumulatively certified under this section, the program administrator
11 may establish an incentive rate for new certifications equal to or
12 less than the rate described in subsection (2) of this section, as
13 provided in section 8 of this act.

14 NEW SECTION. **Sec. 5.** (1)(a) Beginning January 1, 2016, the
15 program administrator may certify a customer of a utility as eligible
16 to receive a solar energy service company production incentive
17 payment from that utility for alternating current electricity
18 produced by a solar energy system with a nameplate capacity that is
19 no more than two hundred kilowatts installed on the customer's side
20 of a utility meter and owned by a solar energy service company, as
21 provided by this section.

22 (b) The solar energy service company must be registered with the
23 commission as required in section 13 of this act.

24 (2) The incentive under this section is payable to the utility
25 customer, but may be voluntarily assigned by the utility customer to
26 the solar energy service company through a contractual agreement
27 between the customer and the solar energy service company. Such an
28 agreement must meet any applicable conditions established by the
29 commission under sections 13, 14, and 16 of this act.

30 (3) For the first twenty megawatts of solar energy system
31 nameplate capacity cumulatively certified under this section:

32 (a) The incentive rate for solar energy systems of nameplate
33 capacity up to fifty kilowatts is eleven cents per kilowatt-hour.

34 (b) The incentive rate for solar energy systems of nameplate
35 capacity fifty kilowatts or more is nine cents per kilowatt-hour.

36 (4) After twenty megawatts of nameplate capacity have been
37 cumulatively certified under this section, the program administrator
38 may establish rates equal to or less than the rates described in
39 subsection (3) of this section, as provided in section 8 of this act.

1 NEW SECTION. **Sec. 6.** (1) Beginning January 1, 2016, a utility
2 or nonprofit organization is eligible to organize and administer a
3 community solar project as provided in this section.

4 (a) The community solar project must have a minimum number of
5 participants, who must be customers of the utility providing service
6 at the situs of the project:

7 (i) For solar energy systems less than one hundred kilowatts
8 nameplate capacity, there must be a minimum of ten participants.

9 (ii) For solar energy systems one hundred kilowatts or greater,
10 there must be at least one participant per ten kilowatts of nameplate
11 capacity.

12 (b) The solar energy system must have a nameplate capacity that
13 is no more than two hundred kilowatts.

14 (c) The utility or nonprofit organization must organize and
15 administer each community solar project in a transparent manner that
16 allows for fair and nondiscriminatory opportunity for participation
17 by utility customers.

18 (2) If the community solar project is organized and administered
19 by a nonprofit organization, the nonprofit organization must submit a
20 project proposal, including a business plan, to the program
21 administrator.

22 (a) Before December 31, 2015, the program administrator must
23 publish guidelines that the program administrator will use in
24 determining eligibility of projects submitted under this subsection.

25 (b) In determining whether a project submitted under this
26 subsection is eligible, the program administrator must consider the
27 extent to which the project will: Expand access in the solar
28 marketplace to a greater range of participants, increase the
29 cost-effectiveness of the state investment, afford a benefit to
30 low-income individuals, and achieve any other objectives specified in
31 the guidelines and consistent with the purposes of this chapter.

32 (3) The electric utility or nonprofit organization may deduct
33 from the incentive payments distributed to participants a reasonable
34 fee to cover costs incurred in organizing and administering the
35 community solar program. An electric utility may also use a portion
36 of the total incentive payment provided under this section to
37 subsidize programs that broaden access to solar power or ownership of
38 solar energy systems by low-income customers, if so authorized
39 through a public process by the commission or governing body, and if
40 project participants prior to making the commitment to participate in

1 the project have been given clear and conspicuous notice that a
2 portion of the incentive payment will be used for this purpose.

3 (4) The purpose of the community solar program is to facilitate
4 broad community investment and access to solar power by utility
5 customers who might otherwise not be able to directly invest in or
6 access the benefits of solar power.

7 (a) A utility or nonprofit organization participating in a
8 community solar project is encouraged to consult with low-income
9 housing providers to identify projects reasonably expected to
10 contribute to broader community participation in the benefits
11 conferred by this tax preference.

12 (b) In consultation with the program administrator, each electric
13 utility organizing and administering a community solar project must
14 establish and publish procedures to ensure that the electric
15 utility's project is consistent with the purpose of this section. The
16 procedures of an investor-owned utility must be approved by the
17 commission.

18 (5) For the first twenty megawatts of solar energy system
19 nameplate capacity cumulatively certified under this section:

20 (a) The incentive rate is thirty cents per kilowatt-hour of
21 alternating current electricity produced by the solar energy system.

22 (b) An additional "clean made" incentive payment of fifteen cents
23 per kilowatt-hour is available if the program administrator
24 determines that the solar energy system meets the technical
25 specifications and guidelines established in section 2(16) of this
26 act.

27 (6) After twenty megawatts of nameplate capacity have been
28 cumulatively certified under this section:

29 (a) The program administrator may establish an incentive rate
30 equal to or less than the rate described in subsection (5)(a) of this
31 section, as provided in section 8 of this act; and

32 (b) An additional "clean made" incentive payment of five cents
33 per kilowatt-hour is available until forty megawatts of nameplate
34 capacity have been cumulatively certified under this section, if the
35 program administrator determines that the solar energy system meets
36 the technical specifications and guidelines established in section
37 2(16) of this act.

38 NEW SECTION. **Sec. 7.** (1) Beginning January 1, 2016, the program
39 administrator may certify an electric utility as eligible to receive

1 a utility production incentive for alternating current electricity
2 produced by a solar energy system with a nameplate capacity that is
3 no more than five hundred kilowatts installed on the premises of a
4 customer served by that utility, on the customer's side of a utility
5 meter, and owned by the electric utility.

6 (2) This section does not apply to a system subject to a contract
7 with a solar energy service company, which is only eligible to
8 participate as provided in section 5 of this act.

9 (3)(a) For the first twenty megawatts of nameplate capacity
10 cumulatively certified to electrical companies under this section and
11 for the first twenty megawatts of nameplate capacity cumulatively
12 certified to consumer-owned utilities under this section:

13 (i) The incentive rate for solar energy systems of nameplate
14 capacity not more than ten kilowatts is twenty cents per
15 kilowatt-hour.

16 (ii) The incentive rate for solar energy systems of nameplate
17 capacity more than ten kilowatts and up to fifty kilowatts is
18 seventeen cents per kilowatt-hour.

19 (iii) The incentive rate for solar energy systems of nameplate
20 capacity fifty kilowatts and up to two hundred kilowatts is nine
21 cents per kilowatt-hour.

22 (iv) The incentive rate for solar energy systems of nameplate
23 capacity of two hundred kilowatts and up to five hundred kilowatts is
24 eleven cents per kilowatt-hour.

25 (b) After twenty megawatts of nameplate capacity of solar energy
26 systems owned by electrical companies have been cumulatively
27 certified under this section, the program administrator may establish
28 an incentive rate for new certifications of electrical company-owned
29 systems, equal to or less than the rate described in (a) of this
30 subsection, as provided in section 8 of this act.

31 (c) After twenty megawatts of nameplate capacity of solar energy
32 systems owned by consumer-owned utilities have been cumulatively
33 certified under this section, the program administrator may establish
34 an incentive rate for new certifications equal to or less than the
35 rate described in (a) of this subsection, as provided in section 8 of
36 this act.

37 (4) For the first twenty megawatts of nameplate capacity
38 installed under this section, irrespective of whether the solar
39 energy system is owned by an electrical company or a consumer-owned
40 utility, an additional "clean made" incentive payment is available if

1 the program administrator determines that the solar energy system
2 meets the technical specifications and guidelines established in
3 section 2(16) of this act, depending on the nameplate capacity of the
4 solar energy system, as follows:

5 (a) Ten cents per kilowatt-hour for solar energy systems up to
6 fifty kilowatts;

7 (b) Eight cents per kilowatt-hour for solar energy systems at
8 least fifty kilowatts and up to two hundred kilowatts; and

9 (c) Five cents per kilowatt-hour for solar energy systems two
10 hundred kilowatts up to five hundred kilowatts.

11 NEW SECTION. **Sec. 8.** (1) After the specified amount of
12 installed nameplate capacity is achieved in any of the five programs
13 established in sections 3 through 7 of this act and periodically
14 thereafter in the program administrator's discretion, the program
15 administrator may propose and implement lower incentive rates for
16 that program, as provided by this section.

17 (2) The program administrator may adjust the incentive rates for
18 new certifications downward if the program administrator determines
19 that such a downward adjustment will help achieve the purposes of
20 this chapter. Such a determination must be made upon review and
21 consideration of, at a minimum, the following information:

22 (a) Solar photovoltaic module and solar energy system market
23 conditions and activity;

24 (b) Installed and net solar energy system costs;

25 (c) The rate of progress toward achieving the one hundred fifty
26 megawatt target for solar energy systems installed under this
27 chapter, with the objective of achieving this target relatively
28 steadily across the eight years in which systems may be certified
29 under this section;

30 (d) Actual and projected retail rates for electricity;

31 (e) Anticipated impact of changes in the availability of the
32 federal investment tax credit; and

33 (f) Public comments received pursuant to a public process, as
34 established in this section.

35 (3) The program administrator shall establish a public process
36 that provides an opportunity for affected stakeholders to comment and
37 submit information relevant to the determination described in
38 subsection (2) of this section.

1 (4) The program administrator must adopt notice procedures
2 reasonably calculated to provide notice to affected and interested
3 individuals.

4 (5)(a) After the program administrator has developed proposed
5 rate changes pursuant to the public process required in this section,
6 the program administrator must provide notice of any proposed rate
7 change to the relevant committees of the legislature.

8 (b) The program administrator may implement rate changes
9 authorized under this section in new system certifications no sooner
10 than ninety days after giving the required notice to the relevant
11 legislative committees.

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

14 (1) Beginning January 1, 2016, a credit is allowed against taxes
15 due under this chapter in an amount equal to incentive payments made
16 in any fiscal year under sections 3 through 7 of this act. The credit
17 must be taken in a form and manner as required by the department.

18 (2) The credit under this section for the fiscal year may not
19 exceed the tax that would otherwise be due under this chapter.

20 (3) Refunds may not be granted in the place of credits.
21 Expenditures not used to earn a credit in one fiscal year may not be
22 used to earn a credit in subsequent years.

23 (4) The right to earn tax credits under this section expires
24 December 31, 2035. Credits may not be claimed after December 31,
25 2036.

26 **Sec. 10.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to
27 read as follows:

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

35 (b) In the case of a community solar project as defined in RCW
36 82.16.110(2)(a)(i), the administrator must apply for the investment
37 cost recovery incentive on behalf of each of the other owners.

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

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

12 (i) The name and address of the applicant and location of the
13 renewable energy system.

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

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

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

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

25 (A) Any solar inverters and solar modules manufactured in
26 Washington state;

27 (B) A wind generator powered by blades manufactured in Washington
28 state;

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

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

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

32 (F) Solar or wind equipment manufactured outside of Washington
33 state;

34 (iv) That the electricity can be transformed or transmitted for
35 entry into or operation in parallel with electricity transmission and
36 distribution systems; and

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

39 (b) Within thirty days of receipt of the certification the
40 department of revenue must notify the applicant by mail, or

1 electronically as provided in RCW 82.32.135, whether the renewable
2 energy system qualifies for an incentive under this section. The
3 department may consult with the climate and rural energy development
4 center to determine eligibility for the incentive. System
5 certifications and the information contained therein are subject to
6 disclosure under RCW 82.32.330(3)(1).

7 (3)(a) By August 1st of each year application for the incentive
8 must be made to the light and power business serving the situs of the
9 system by certification in a form and manner prescribed by the
10 department that includes, but is not limited to, the following
11 information:

12 (i) The name and address of the applicant and location of the
13 renewable energy system.

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

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

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

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

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

27 (b) Within sixty days of receipt of the incentive certification
28 the light and power business serving the situs of the system must
29 notify the applicant in writing whether the incentive payment will be
30 authorized or denied. The business may consult with the climate and
31 rural energy development center to determine eligibility for the
32 incentive payment. Incentive certifications and the information
33 contained therein are subject to disclosure under RCW
34 82.32.330(3)((+1+)) (e).

35 (c)(i) Persons, administrators of community solar projects, and
36 companies receiving incentive payments must keep and preserve, for a
37 period of five years, suitable records as may be necessary to
38 determine the amount of incentive applied for and received. Such
39 records must be open for examination at any time upon notice by the
40 light and power business that made the payment or by the department.

1 If upon examination of any records or from other information obtained
2 by the business or department it appears that an incentive has been
3 paid in an amount that exceeds the correct amount of incentive
4 payable, the business may assess against the person for the amount
5 found to have been paid in excess of the correct amount of incentive
6 payable and must add thereto interest on the amount. Interest is
7 assessed in the manner that the department assesses interest upon
8 delinquent tax under RCW 82.32.050.

9 (ii) If it appears that the amount of incentive paid is less than
10 the correct amount of incentive payable the business may authorize
11 additional payment.

12 (4) Except for community solar projects, the investment cost
13 recovery incentive may be paid fifteen cents per economic development
14 kilowatt-hour unless requests exceed the amount authorized for credit
15 to the participating light and power business. For community solar
16 projects, the investment cost recovery incentive may be paid thirty
17 cents per economic development kilowatt-hour unless requests exceed
18 the amount authorized for credit to the participating light and power
19 business. For the purposes of this section, the rate paid for the
20 investment cost recovery incentive may be multiplied by the following
21 factors:

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

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

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

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

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

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

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

5 (d) Where the applicant is a company owning a community solar
6 project that has applied for an investment cost recovery incentive on
7 behalf of its members, each member of the company is eligible for an
8 incentive that would otherwise belong to the company but only in
9 proportion to each ownership share of the company, up to five
10 thousand dollars per year. The company itself is not eligible for
11 incentives under this section.

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

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

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

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

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

31 (10) The department must not accept any new certifications under
32 this section after November 30, 2015, or act upon these
33 certifications after December 31, 2015. Any person that has been
34 certified by the department to receive payments under this section by
35 December 31, 2015, may continue to apply to receive payments as
36 provided in this section until June 30, 2020. Applications pursuant
37 to this subsection (10) must be disclosed to the program
38 administrator, as defined in section 1 of this act, as authorized
39 under RCW 82.32.330(3)(e).

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

3 The legislature finds that:

4 (1) Solar energy service companies are electrical companies and
5 are subject to the jurisdiction of the commission.

6 (2) Traditional rate of return, rate-based regulation of solar
7 energy service companies does not provide the most efficient and
8 effective means of achieving the public policy goals of this state as
9 declared in RCW 80.28.024, 80.28.074, and this section.

10 (3) The provision of solar energy services affects the public
11 interest and requires the oversight of the commission in order to
12 protect consumers. Nothing in this act precludes the office of the
13 attorney general from exercising its statutory authority under
14 chapter 19.86 RCW.

15 **Sec. 12.** RCW 80.28.005 and 1994 c 268 s 1 are each amended to
16 read as follows:

17 (~~Unless the context clearly requires otherwise,~~) The
18 definitions in this section apply throughout this chapter unless the
19 context clearly requires otherwise.

20 (1) "Bondable conservation investment" means all expenditures
21 made by electrical, gas, or water companies with respect to energy or
22 water conservation measures and services intended to improve the
23 efficiency of electricity, gas, or water end use, including related
24 carrying costs if:

25 (a) The conservation measures and services do not produce assets
26 that would be bondable utility property under the general utility
27 mortgage of the electrical, gas, or water company;

28 (b) The commission has determined that the expenditures were
29 incurred in conformance with the terms and conditions of a
30 conservation service tariff in effect with the commission at the time
31 the costs were incurred, and at the time of such determination the
32 commission finds that the company has proven that the costs were
33 prudent, that the terms and conditions of the financing are
34 reasonable, and that financing under this chapter is more favorable
35 to the customer than other reasonably available alternatives;

36 (c) The commission has approved inclusion of the expenditures in
37 rate base and has not ordered that they be currently expensed; and

38 (d) The commission has not required that the measures demonstrate
39 that energy savings have persisted at a certain level for a certain

1 period before approving the cost of these investments as bondable
2 conservation investment.

3 (2) "Conservation bonds" means bonds, notes, certificates of
4 beneficial interests in trusts, or other evidences of indebtedness or
5 ownership that:

6 (a) The commission determines at or before the time of issuance
7 are issued to finance or refinance bondable conservation investment
8 by an electrical, gas or water company; and

9 (b) Rely partly or wholly for repayment on conservation
10 investment assets and revenues arising with respect thereto.

11 (3) "Conservation investment assets" means the statutory right of
12 an electrical, gas, or water company:

13 (a) To have included in rate base all of its bondable
14 conservation investment and related carrying costs; and

15 (b) To receive through rates revenues sufficient to recover the
16 bondable conservation investment and the costs of equity and debt
17 capital associated with it, including, without limitation, the
18 payment of principal, premium, if any, and interest on conservation
19 bonds.

20 (4) "Finance subsidiary" means any corporation, company,
21 association, joint stock association, or trust that is beneficially
22 owned, directly or indirectly, by an electrical, gas, or water
23 company, or in the case of a trust issuing conservation bonds
24 consisting of beneficial interests, for which an electrical, gas, or
25 water company or a subsidiary thereof is the grantor, or an
26 unaffiliated entity formed for the purpose of financing or
27 refinancing approved conservation investment, and that acquires
28 conservation investment assets directly or indirectly from such
29 company in a transaction approved by the commission.

30 (5) "Consumer contract" means the lease, power purchase
31 agreement, loan, or other financial agreement between a solar energy
32 service company and a customer by which the customer has obtained
33 beneficial interest in a solar energy system that is not owned by the
34 customer but is installed on the customer's side of the meter on
35 property controlled by the customer.

36 (6) "Electric utility" means an electrical company regulated
37 under this title, a municipal electric utility formed under Title 35
38 RCW, a public utility district formed under Title 54 RCW, an
39 irrigation district formed under chapter 87.03 RCW, a cooperative
40 formed under chapter 23.86 RCW, a mutual corporation or association

1 formed under chapter 24.06 RCW, a port district formed under Title 53
2 RCW, or a water-sewer district formed under Title 57 RCW, that is
3 engaged in the business of distributing electricity to one or more
4 retail electric customers in the state.

5 (7) "Solar energy services" means the provision of electricity
6 generated by the system to the customer, and may include other
7 services associated with the use of a solar energy system under a
8 lease, power purchase agreement, loan, or other financial
9 transaction. Such other services may include system monitoring and
10 maintenance, warranty provisions, performance guarantees, and
11 customer service.

12 (8)(a) "Solar energy service company" means an electrical company
13 that owns a solar energy system on property controlled by a customer
14 and that enters into an agreement with a customer to provide solar
15 energy services.

16 (b) The following entities are not solar energy service
17 companies:

18 (i) Commercial lending institutions that are regulated by the
19 department of financial institutions and provide loans for the
20 purchase of solar energy systems;

21 (ii) Companies engaged in retail sales of solar energy equipment
22 that are not otherwise engaged in business as a solar energy service
23 company; and

24 (iii) Electric utilities that offer solar energy services to
25 their customers or members in conjunction with other utility
26 services.

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

30 NEW SECTION. Sec. 13. A new section is added to chapter 80.28
31 RCW to read as follows:

32 (1) No solar energy service company, including an affiliate of an
33 electric utility, may engage in business as a solar energy service
34 company in this state without first registering with the
35 commission. Engaging in business as a solar energy service company
36 includes advertising, soliciting, offering, or entering into an
37 agreement to own a solar energy system and provide solar energy
38 services on property owned or controlled by a customer.

1 (2) The registration must be on a form prescribed by the
2 commission and contain information that the commission may by rule
3 require, but must include at a minimum: The name and address of the
4 company; the name and address of the company's registered agent, if
5 any; the company's universal business identification number; the
6 name, address, and title of each officer or director; if the company
7 is publicly traded, the company's most recent annual report filed
8 with the United States securities and exchange commission; if not
9 publicly traded, the company's current balance sheet; the company's
10 latest annual report, if any; and a description of the services the
11 company offers or intends to offer.

12 (3) The commission may reject an application that does not
13 contain all information required by this section.

14 (4) The commission must take action to approve any application
15 for registration within thirty days after receiving the
16 application. The commission may approve an application with or
17 without a hearing.

18 (5) The commission may charge solar energy service companies an
19 application fee to recover the cost of processing applications for
20 registration under this section.

21 (6) The commission may adopt rules that describe the manner by
22 which it will register solar energy service companies, the companies'
23 responsibilities for responding to customer complaints and disputes,
24 annual reporting requirements, and the amount of application and
25 regulatory fees.

26 (7) The commission may suspend or revoke a registration upon
27 complaint by any interested party, or upon the commission's own
28 motion after notice and opportunity for hearing, when the registered
29 solar energy service company or its agent has repeatedly violated
30 this chapter, the rules and regulations of the commission, or the
31 laws of this state or of the United States.

32 NEW SECTION. **Sec. 14.** A new section is added to chapter 80.28
33 RCW to read as follows:

34 (1) A solar energy service company is subject to minimal
35 regulation concerning registration, disclosure of terms of services,
36 and consumer protection. A solar energy service company is not
37 subject to the regulatory requirements concerning rate regulation and
38 furnishing of service for electrical companies in this title
39 including, but not limited to, RCW 80.28.010, 80.28.020, 80.28.025,

1 80.28.050, 80.28.060, 80.28.065, 80.28.068, 80.28.075, 80.28.080,
2 80.28.090, 80.28.100, 80.28.110, and 80.28.120. Competition among
3 solar energy service companies will serve the same purposes as
4 economic regulation. The commission may waive any regulatory
5 requirement under this title, except the requirements established
6 under this section and sections 13 and 16 of this act, for a solar
7 energy service company when the commission determines that
8 competition will serve the same purposes as public interest
9 regulation.

10 (2) A solar energy service company that is an affiliate of a
11 utility may only enter a consumer contract with a customer of the
12 utility with which the solar energy service company is affiliated.

13 (3) A solar energy service company must not engage in unfair or
14 deceptive business practices in the provision or promotion of solar
15 energy services. A solar energy service company must at a minimum:

16 (a) Keep its customer records available for inspection by the
17 commission for five years;

18 (b) Cooperate with commission investigations of customer
19 complaints; and

20 (c) Ensure that its consumer contracts meet the disclosure
21 requirements established by this section, section 2(7)(b) of this
22 act, and by commission rule.

23 (4) Consumer contracts must clearly state:

24 (a) The payment schedule and an estimate of the amount of
25 periodic payments;

26 (b) Estimates of the total contract payments in the first year,
27 the percentage contract payments increase each year, and the total
28 amount the customer will pay over time;

29 (c) Any potential fees or penalties for late payments;

30 (d) A concise list of customer obligations beyond the monthly
31 payments;

32 (e) An estimate of annual energy production for the term of the
33 contract;

34 (f) A description of warranties provided;

35 (g) The manufacturer and model of all substantial system
36 components;

37 (h) If applicable, a reference to the source of any information
38 concerning historical or projected electricity prices;

1 (i) The customer's responsibility for making a regular payment to
2 his or her electric utility at billed rates, in addition to a regular
3 payment to the solar energy service company;

4 (j) The customer's responsibility for entering into necessary
5 interconnection and net metering agreements with his or her electric
6 utility; and

7 (k) The customer's options upon sale of his or her property,
8 including the customer's right to obtain a release of liability under
9 the consumer contract, upon assumption of the contract by a new
10 property owner, and any other contract conditions as provided in
11 section 18 of this act.

12 (5) Any consumer contract that includes terms limiting the
13 customer's right to obtain a remedy by accessing a court or the
14 customer's right to enter into class litigation must provide these
15 terms on a separate contract page in bold and conspicuous print and
16 require the customer to separately sign acknowledgment of the terms.

17 (6) Nothing in this section removes a solar energy service
18 company's responsibility to ensure that its consumer contracts also
19 meet the requirements of applicable state and federal laws.

20 (7) A solar energy service company may not include in a consumer
21 contract a provision that limits a consumer's ability to seek
22 damages. A provision limiting damages is void as against public
23 policy.

24 (8) During a state of emergency declared under RCW 43.06.010(12),
25 the governor may waive or suspend the operation or enforcement of
26 this section or any portion of this section or under any
27 administrative rule, and issue any orders to facilitate the operation
28 of state or local government or to promote and secure the safety and
29 protection of the civilian population.

30 NEW SECTION. **Sec. 15.** A new section is added to chapter 80.28
31 RCW to read as follows:

32 (1) Each solar energy service company and each electrical company
33 shall provide to the commission, within thirty days of its issuance,
34 a copy of every judgment or arbitration decision in an action
35 alleging a violation of the consumer protections afforded by sections
36 2, 13, 14, and 16 of this act or chapter 19.86 RCW.

37 (2) Each consumer-owned utility shall provide to the attorney
38 general, within thirty days of its issuance, a copy of every judgment
39 or arbitration decision in an action alleging a violation of the

1 consumer protections afforded by sections 2, 13, 14, and 16 of this
2 act or chapter 19.86 RCW.

3 NEW SECTION. **Sec. 16.** A new section is added to chapter 80.28
4 RCW to read as follows:

5 For the purpose of RCW 19.86.170, actions or transactions of
6 solar energy service companies are not deemed otherwise permitted,
7 prohibited, or regulated by the commission.

8 NEW SECTION. **Sec. 17.** A new section is added to chapter 80.28
9 RCW to read as follows:

10 In addition to the penalties provided in this title, a violation
11 of chapter . . ., Laws of 2015 (this act) constitutes an unfair or
12 deceptive act in trade or commerce in violation of chapter 19.86 RCW,
13 the consumer protection act. Acts in violation of section 13 or 14 of
14 this act are not reasonable in relation to the development and
15 preservation of business, and constitute matters vitally affecting
16 the public interest for the purpose of applying the consumer
17 protection act, chapter 19.86 RCW.

18 NEW SECTION. **Sec. 18.** (1)(a) Unless the seller and buyer agree
19 otherwise, in the event of sale or transfer of real property subject
20 to a consumer contract for solar energy services, if a memorandum
21 reflecting the essential terms of the consumer contract has been
22 recorded with the county auditor, the remainder of the consumer
23 contract must be assumed by the buyer.

24 (b) For purposes of this section, essential terms include any
25 terms so designated by commission rule issued under authority of
26 chapter 80.28 RCW.

27 (2) Upon transfer of ownership of real property subject to the
28 consumer contract, the buyer assuming the consumer contract continues
29 to qualify to receive solar production incentive payments and other
30 applicable benefits of the contract, subject to the requirements that
31 the buyer must complete an interconnection application and agreement
32 with the utility serving the situs of the solar energy system and
33 must provide a copy of this agreement to the program administrator,
34 as provided in section 2(16) of this act.

35 (3) Thirty days prior to closing, the seller of real property
36 subject to a consumer contract shall notify the utility and the solar

1 energy service company of whether the buyer will be assuming the
2 contract. Within seven days of receipt of the seller's notice:

3 (a) If notified that the buyer will be assuming the contract, the
4 solar energy service company shall provide the documentation
5 necessary for assumption of the contract by the buyer; or

6 (b) If notified that the buyer will not be assuming the contract,
7 the solar energy service company shall provide documentation of the
8 procedures for termination of the contract and removal of the solar
9 energy system.

10 (4) Within twenty-one days of receipt of the seller's written
11 notice that the buyer will not be assuming the contract, the solar
12 energy service company must remove the solar energy system from the
13 real property.

14 (5) At the termination of a consumer contract, whether at the end
15 of the contract term or earlier, the solar energy service company is
16 responsible for the removal of the solar energy system from the
17 property. The solar energy service company may recover the cost of
18 removal only as specified in the contract and noted in the recorded
19 memorandum.

20 (6) A consumer contract may not grant a utility or solar energy
21 service company any authority to approve, disapprove, or otherwise
22 restrict the transfer of real property associated with a solar energy
23 system.

24 (7) The solar energy service company shall guarantee sufficient
25 funds to properly dispose of the solar energy system at the end of
26 the lease. The solar energy service company is responsible for
27 identifying hazardous and commercially valuable materials contained
28 in the solar energy system and identifying procedures by which these
29 materials may be properly disposed of or reclaimed. The solar energy
30 service company must provide this information to the commission upon
31 request.

32 (8) For the purposes of this section, "consumer contract" and
33 "solar energy services" have the same meaning as defined in RCW
34 80.28.005.

35 NEW SECTION. **Sec. 19.** (1) Except as provided in subsection (3)
36 of this section, an electric utility is not liable for any harm,
37 economic or otherwise, caused to a customer-generator, a solar energy
38 service company, or another utility by disconnection of a solar
39 energy system for a legitimate purpose.

1 (2) A legitimate purpose for disconnection of a solar energy
2 system includes, but is not limited to, a safety or reliability
3 purpose, nonpayment of an electric bill to the utility by the
4 customer-generator, or a violation by the customer-generator or solar
5 energy service company of the interconnection agreement between the
6 utility and customer-generator.

7 (3) Standards for disconnection by an electric utility may not be
8 developed or applied in a manner that unreasonably discriminate on
9 the basis of whether the system is owned by the electric utility or
10 by a solar energy service company or other utility.

11 **Sec. 20.** RCW 82.08.963 and 2013 2nd sp.s. c 13 s 1602 are each
12 amended to read as follows:

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

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

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

31 (b) "Machinery and equipment" does not include: (i) Hand-powered
32 tools; (ii) property with a useful life of less than one year; (iii)
33 repair parts required to restore machinery and equipment to normal
34 working order; (iv) replacement parts that do not increase
35 productivity, improve efficiency, or extend the useful life of
36 machinery and equipment; (v) buildings; or (vi) building fixtures
37 that are not integral and necessary to the generation of electricity
38 that are permanently affixed to and become a physical part of a
39 building;

1 (c) Machinery and equipment is "used directly" in generating
2 electricity with solar energy if it provides any part of the process
3 that captures the energy of the sun, converts that energy to
4 electricity, and stores, transforms, or transmits that electricity
5 for entry into or operation in parallel with electric transmission
6 and distribution systems; and

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

14 (3) The exemption provided by this section for the sales of
15 machinery and equipment that is used directly in the generation of
16 electricity using solar energy, or for sales of or charges made for
17 labor and services rendered in respect to installing the machinery
18 and equipment, expires December 31, 2015.

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

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

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

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

29 (3) The exemption provided by this section for the sales of
30 machinery and equipment that is used directly in the generation of
31 electricity using solar energy, or for use of labor or services
32 rendered in respect to installing such machinery and equipment,
33 expires December 31, 2015.

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

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

37 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
38 paid the tax imposed by RCW 82.08.020 on machinery and equipment used

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

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

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

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

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

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

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

39 (d)(i) "Machinery and equipment" means fixtures, devices, and
40 support facilities that are integral and necessary to the generation

1 of electricity using fuel cells, wind, sun, biomass energy, tidal or
2 wave energy, geothermal resources, anaerobic digestion, technology
3 that converts otherwise lost energy from exhaust, or landfill gas as
4 the principal source of power.

5 (ii) "Machinery and equipment" does not include: (A) Hand-powered
6 tools; (B) property with a useful life of less than one year; (C)
7 repair parts required to restore machinery and equipment to normal
8 working order; (D) replacement parts that do not increase
9 productivity, improve efficiency, or extend the useful life of
10 machinery and equipment; (E) buildings; or (F) 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 (3)(a) Machinery and equipment is "used directly" in generating
14 electricity by wind energy, solar energy, biomass energy, tidal or
15 wave energy, geothermal resources, anaerobic digestion, technology
16 that converts otherwise lost energy from exhaust, or landfill gas
17 power if it provides any part of the process that captures the energy
18 of the wind, sun, biomass energy, tidal or wave energy, geothermal
19 resources, anaerobic digestion, technology that converts otherwise
20 lost energy from exhaust, or landfill gas, converts that energy to
21 electricity, and stores, transforms, or transmits that electricity
22 for entry into or operation in parallel with electric transmission
23 and distribution systems.

24 (b) Machinery and equipment is "used directly" in generating
25 electricity by fuel cells if it provides any part of the process that
26 captures the energy of the fuel, converts that energy to electricity,
27 and stores, transforms, or transmits that electricity for entry into
28 or operation in parallel with electric transmission and distribution
29 systems.

30 (4)(a) A purchaser claiming an exemption in the form of a
31 remittance under subsection (1)(c) of this section must pay the tax
32 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
33 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
34 may then apply to the department for remittance in a form and manner
35 prescribed by the department. A purchaser may not apply for a
36 remittance under this section more frequently than once per quarter.
37 The purchaser must specify the amount of exempted tax claimed and the
38 qualifying purchases for which the exemption is claimed. The
39 purchaser must retain, in adequate detail, records to enable the
40 department to determine whether the purchaser is entitled to an

1 exemption under this section, including: Invoices; proof of tax paid;
2 and documents describing the machinery and equipment.

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

8 (5) The exemption provided by this section expires December 31,
9 2015, as it applies to: (a) Machinery and equipment that is used
10 directly in the generation of electricity using solar energy and
11 capable of generating no more than two hundred kilowatts of
12 electricity; or (b) sales of or charges made for labor and services
13 rendered in respect to installing such machinery and equipment.

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

15 **Sec. 23.** RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each
16 amended to read as follows:

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

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

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

1 (2)(a) A person claiming an exemption in the form of a remittance
2 under subsection (1)(c) of this section must pay the tax imposed by
3 RCW 82.12.020 and all applicable local use taxes imposed under the
4 authority of chapters 82.14 and 81.104 RCW. The consumer may then
5 apply to the department for remittance in a form and manner
6 prescribed by the department. A consumer may not apply for a
7 remittance under this section more frequently than once per quarter.
8 The consumer must specify the amount of exempted tax claimed and the
9 qualifying purchases or acquisitions for which the exemption is
10 claimed. The consumer must retain, in adequate detail, records to
11 enable the department to determine whether the consumer is entitled
12 to an exemption under this section, including: Invoices; proof of tax
13 paid; and documents describing the machinery and equipment.

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

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

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

22 (5) The exemption provided in subsection (1) of this section
23 expires December 31, 2015, as it applies to machinery and equipment
24 used directly in the generation of electricity using solar energy
25 with nameplate capacity greater than two hundred kilowatts, or to
26 sales of or charges made for labor and services rendered in respect
27 to installing such machinery and equipment.

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

29 **Sec. 24.** RCW 80.60.005 and 1998 c 318 s 1 are each amended to
30 read as follows:

31 (1) The legislature finds that it is in the public interest to:

32 ((+1)) (a) Encourage private investment in renewable energy
33 resources;

34 ((+2)) (b) Stimulate the economic growth of this state; and

35 ((+3)) (c) Enhance the continued diversification of the energy
36 resources used in this state.

37 (2) The legislature further finds that most homes and businesses
38 with a net metering system and related facilities will continue to be
39 interconnected to the local grid and will utilize the grid for safe

1 electric services including power, energy, balancing, distribution,
2 and reliability. As utilities look to facilitate customer choice for
3 deployment of on-site generation and other grid level services,
4 ratepayers are best served by a just, fair, reasonable, and
5 sufficient price structure that equitably captures the cost of
6 service provided to each customer. Flexible system cost allocation
7 options allow all customers and customer classes to share fairly in
8 the costs and benefits of distributed generation and the electrical
9 grid, including the development and deployment of evolving services
10 and technologies.

11 **Sec. 25.** RCW 80.60.020 and 2007 c 323 s 2 are each amended to
12 read as follows:

13 (1) An electric utility:

14 (a) Shall offer to make net metering available to eligible
15 customers-generators on a first-come, first-served basis until the
16 cumulative generating capacity of net metering systems equals 0.25
17 percent of the utility's peak demand during 1996. On January 1, 2014,
18 the cumulative generating capacity available to net metering systems
19 will equal 0.5 percent of the utility's peak demand during 1996. Not
20 less than one-half of the utility's 1996 peak demand available for
21 net metering systems shall be reserved for the cumulative generating
22 capacity attributable to net metering systems that generate renewable
23 energy;

24 (b) ~~Shall ((allow net metering systems to be interconnected using~~
25 ~~a standard kilowatt hour meter capable of registering the flow of~~
26 ~~electricity in two directions, unless the commission, in the case of~~
27 ~~an electrical company, or the appropriate governing body, in the case~~
28 ~~of other electric utilities, determines, after appropriate notice and~~
29 ~~opportunity for comment;~~

30 ~~(i) That the use of additional metering equipment to monitor the~~
31 ~~flow of electricity in each direction is necessary and appropriate~~
32 ~~for the interconnection of net metering systems, after taking into~~
33 ~~account the benefits and costs of purchasing and installing~~
34 ~~additional metering equipment; and~~

35 ~~(ii) How the cost of purchasing and installing an additional~~
36 ~~meter is to be allocated between the customer-generator and the~~
37 ~~utility;~~

38 ~~(c))~~ receive, on April 30th of each calendar year, for net
39 metering systems using solar energy as a fuel, and annually on a date

1 set by the utility to maximize customer on-site usage for all other
2 net metering systems, and without compensation to the
3 customer-generator, any kilowatt-hours generated in excess of the
4 customer-generator's load during the previous year at the end of the
5 measuring year; and

6 (c) Shall, in implementing this section, use the method provided
7 in subsection (2) or (3) of this section to determine measurement and
8 charges for net metering systems.

9 (2) If utilizing the method provided in this section for
10 determining measurements and charges, an electric utility:

11 (a) Shall charge the customer-generator a minimum monthly fee
12 that is the same as other customers of the electric utility in the
13 same rate class, but shall not charge the customer-generator any
14 additional standby, capacity, interconnection, or other fee or charge
15 unless the commission, in the case of an electrical company, or the
16 appropriate governing body, in the case of other electric utilities,
17 determines, after appropriate notice and opportunity for comment,
18 that:

19 (i) The electric utility will incur direct costs associated with
20 interconnecting or administering net metering systems that exceed any
21 offsetting benefits associated with these systems; and

22 (ii) Public policy is best served by imposing these costs on the
23 customer-generator rather than allocating these costs among the
24 utility's entire customer base;

25 (b) Shall allow net metering systems to be interconnected using a
26 standard kilowatt-hour meter capable of registering the flow of
27 electricity in two directions, unless the commission, in the case of
28 an electrical company, or the appropriate governing body, in the case
29 of other electric utilities, after appropriate notice and opportunity
30 for comment:

31 (i) Determines that the use of additional metering equipment to
32 monitor the flow of electricity in each direction is necessary and
33 appropriate for the interconnection of net metering systems, after
34 taking into account the benefits and costs of purchasing and
35 installing additional metering equipment; and

36 (ii) Establishes how the cost of purchasing and installing an
37 additional meter is to be allocated between the customer-generator
38 and the utility;

39 (c) Shall calculate the net energy measurement in the following
40 manner:

1 (i) The electric utility shall measure the net electricity
2 produced or consumed during the billing period, in accordance with
3 normal metering practices.

4 (ii) If the electricity supplied by the electric utility exceeds
5 the electricity generated by the customer-generator and fed back to
6 the electric utility during the billing period, the
7 customer-generator shall be billed for the net electricity supplied
8 by the electric utility, in accordance with normal metering
9 practices.

10 (iii) If electricity generated by the customer-generator exceeds
11 the electricity supplied by the electric utility, the
12 customer-generator:

13 (A) Shall be billed for the appropriate customer charges for that
14 billing period, in accordance with this subsection; and

15 (B) Shall be credited for the excess kilowatt-hours generated
16 during the billing period, with this kilowatt-hour credit appearing
17 on the bill for the following billing period.

18 (3) If utilizing the method provided in this subsection for
19 determining measurements and charges:

20 (a) An electric utility shall, for electrical companies, file a
21 tariff rate schedule requiring approval of the commission; or, for
22 other electric utilities, adopt rates requiring approval of its
23 governing board, that recovers the cost of services provided to
24 customer-generators with net metering systems and related facilities.

25 (b) The new tariff rate schedule or rate adopted pursuant to this
26 subsection must also provide that customer-generators, individually,
27 or as groups or rate classes:

28 (i) Pay for the direct quantifiable costs of service they receive
29 from the electric system; and

30 (ii) Receive fair compensation for the direct quantifiable
31 benefits the net metering system and related facilities provide to
32 the electric system.

33 (c) The new tariff rate schedule or rate, as appropriate, must
34 allow additional metering equipment at the customer-generator's
35 expense to accurately measure the flow of electricity in each
36 direction, if necessary to implement the schedule or rate.

37 ~~((2) If a production meter and software is required by the~~
38 ~~electric utility to provide meter aggregation under RCW 80.60.030(4),~~
39 ~~the customer-generator is responsible for the purchase of the~~
40 ~~production meter and software.))~~

1 (4) By December 1, 2016, and by December 1st of each even-
2 numbered year thereafter, the department of commerce shall prepare
3 and transmit to the governor and the appropriate committees of the
4 legislature, along with the state energy strategy implementation
5 report required under RCW 43.21F.045, a report documenting
6 utilization by electric utilities of the alternative tariff rate
7 schedule provided in subsection (3) of this section. The department
8 of commerce has the authority as provided in RCW 43.21F.060 to obtain
9 all information from electric utilities necessary to prepare this
10 report.

11 **Sec. 26.** RCW 80.60.030 and 2007 c 323 s 3 are each amended to
12 read as follows:

13 ~~((Consistent with the other provisions of this chapter, the net~~
14 ~~energy measurement must be calculated in the following manner:))~~

15 ~~(1) ((The electric utility shall measure the net electricity~~
16 ~~produced or consumed during the billing period, in accordance with~~
17 ~~normal metering practices.~~

18 ~~(2) If the electricity supplied by the electric utility exceeds~~
19 ~~the electricity generated by the customer-generator and fed back to~~
20 ~~the electric utility during the billing period, the customer-~~
21 ~~generator shall be billed for the net electricity supplied by the~~
22 ~~electric utility, in accordance with normal metering practices.~~

23 ~~(3) If electricity generated by the customer-generator exceeds~~
24 ~~the electricity supplied by the electric utility, the customer-~~
25 ~~generator:~~

26 ~~(a) Shall be billed for the appropriate customer charges for that~~
27 ~~billing period, in accordance with RCW 80.60.020; and~~

28 ~~(b) Shall be credited for the excess kilowatt-hours generated~~
29 ~~during the billing period, with this kilowatt-hour credit appearing~~
30 ~~on the bill for the following billing period.~~

31 ~~(4))~~ If a customer-generator requests, an electric utility shall
32 provide meter aggregation.

33 (a) For customer-generators participating in meter aggregation,
34 kilowatt-hours credits earned by a net metering system during the
35 billing period first shall be used to offset electricity supplied by
36 the electric utility.

37 (b) Not more than a total of one hundred kilowatts shall be
38 aggregated among all customer-generators participating in a
39 generating facility under this subsection.

1 (c) Excess kilowatt-hours credits earned by the net metering
2 system, during the same billing period, shall be credited equally by
3 the electric utility to remaining meters located on all premises of a
4 customer-generator at the designated rate of each meter.

5 (d) Meters so aggregated shall not change rate classes due to
6 meter aggregation under this section, but may change rate classes and
7 be charged rates as provided in RCW 80.60.020.

8 ~~((5) On April 30th of each calendar year, any remaining unused
9 kilowatt-hour credit accumulated during the previous year shall be
10 granted to the electric utility, without any compensation to the
11 customer-generator.))~~

12 (2) If a production meter and software upgrade is required by the
13 electric utility to provide meter aggregation, the customer-generator
14 is responsible for the purchase of the production meter and software
15 upgrade.

16 **Sec. 27.** RCW 80.60.040 and 2006 c 201 s 4 are each amended to
17 read as follows:

18 (1) A net metering system used by a customer-generator shall
19 include, at the customer-generator's own expense, all equipment
20 necessary to meet applicable safety, power quality, and
21 interconnection requirements established by the national electrical
22 code, national electrical safety code, the institute of electrical
23 and electronics engineers, and underwriters laboratories.

24 (2) The commission, in the case of an electrical company, or the
25 appropriate governing body, in the case of other electric utilities,
26 after appropriate notice and opportunity for comment, may adopt by
27 regulation additional safety, power quality, and interconnection
28 requirements for customer-generators, including limitations on the
29 number of customer-generators and total capacity of net metering
30 systems that may be interconnected to any distribution feeder line,
31 circuit, or network that the commission or governing body determines
32 are necessary to protect public safety and system reliability.

33 (3) An electric utility may not require a customer-generator
34 whose net metering system meets the standards in subsections (1) and
35 (2) of this section to comply with additional safety or performance
36 standards, perform or pay for additional tests, or purchase
37 additional liability insurance. However, an electric utility shall
38 not be liable directly or indirectly for permitting or continuing to
39 allow an attachment of, or disconnecting for any reason, a net

1 metering system, or for the acts or omissions of the customer-
2 generator that cause loss or injury, including death, to any third
3 party.

4 NEW SECTION. **Sec. 28.** (1) This section is the tax preference
5 performance statement for the tax preference contained in sections 1
6 through 8 of this act. The performance statement is only intended to
7 be used for subsequent evaluation of the tax preference. It is not
8 intended to create a private right of action by any party or be used
9 to determine eligibility for preferential tax treatment.

10 (2) This tax preference is intended to induce the installation of
11 one hundred fifty megawatts of solar energy systems in Washington by
12 2024 and to create and retain in-state jobs in the manufacturing and
13 installation of solar energy systems. It is the legislature's intent
14 to help overcome barriers to solar deployment by reducing the cost to
15 customers and utilities of acquiring and installing such systems,
16 thereby incentivizing installation of more solar energy systems.

17 (3) In 2023, in the annual report to the legislature by the
18 program administrator required under section 2(19) of this act, the
19 program administrator shall report to the legislature on the extent
20 to which the tax preference has promoted the installation of one
21 hundred fifty megawatts of solar energy systems in Washington and an
22 increase in statewide employment in the solar energy sector of ten
23 percent above 2015 levels.

24 (4) In order to obtain employment data necessary to evaluate
25 performance of this tax preference, the program administrator is
26 encouraged to survey in-state solar energy system manufacturers and
27 installers, or an industry group representing such entities, in 2015
28 to establish a baseline, and in 2023 before submitting the annual
29 report.

30 NEW SECTION. **Sec. 29.** Sections 1 through 8, 18, 19, and 28 of
31 this act constitute a new chapter in Title 80 RCW.

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