
SUBSTITUTE HOUSE BILL 1105

State of Washington

63rd Legislature

2013 Regular Session

By House Environment (originally sponsored by Representatives McCoy, Morris, Wylie, Ryu, and Pollet)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to modifying the renewable energy cost recovery
2 program; amending RCW 82.16.110, 82.16.120, and 82.16.130; and adding
3 new sections to chapter 82.16 RCW.

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

5 **Sec. 1.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Administrator" means an owner and assignee of a community
10 solar project as defined in subsection (2)(a)(i) of this section that
11 is responsible for applying for the investment cost recovery incentive
12 on behalf of the other owners and performing such administrative tasks
13 on behalf of the other owners as may be necessary, such as receiving
14 investment cost recovery incentive payments, and allocating and paying
15 appropriate amounts of such payments to the other owners.

16 (2)(a) "Community solar project" means:

17 (i) A solar energy system that is capable of generating up to
18 seventy-five kilowatts of electricity and is owned by local
19 individuals, households, nonprofit organizations, or nonutility

1 businesses that is placed on the property owned by a cooperating local
2 governmental entity (~~that~~), a community or technical college, or a
3 federally recognized Indian tribal government, if the cooperating
4 entity, organization, or college is not in the light and power business
5 or in the gas distribution business;

6 (ii) A utility-owned solar energy system that is capable of
7 generating up to seventy-five kilowatts of electricity and that is
8 voluntarily funded by the utility's ratepayers where, in exchange for
9 their financial support, the utility gives contributors a payment or
10 credit on their utility bill for the value of the electricity produced
11 by the project; or

12 (iii) A solar energy system, placed on the property owned by a
13 cooperating local governmental entity (~~that~~), a nonprofit
14 organization, a community or technical college, or a federally
15 recognized Indian tribal government, if the cooperating entity,
16 organization, or college is not in the light and power business or in
17 the gas distribution business, that is capable of generating up to
18 seventy-five kilowatts of electricity, and that is owned by a company
19 whose members are each eligible for an investment cost recovery
20 incentive for the same customer-generated electricity as provided in
21 RCW 82.16.120.

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

24 (i) "Company" means an entity that is:

25 (A)(I) A limited liability company;

26 (II) A cooperative formed under chapter 23.86 RCW; or

27 (III) A mutual corporation or association formed under chapter
28 24.06 RCW; and

29 (B) Not a "utility" as defined in this subsection (2)(b); and

30 (ii) "Nonprofit organization" means an organization exempt from
31 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
32 code of 1986, as amended, as of January 1, 2009; and

33 (iii) "Utility" means a light and power business, an electric
34 cooperative, or a mutual corporation that provides electricity service.

35 (3) "Customer-generated electricity" means a community solar
36 project or the alternating current electricity that is generated from
37 a renewable energy system located in Washington and installed on an
38 individual's, businesses', federally recognized Indian tribal

1 government's, or local government's real property that is also provided
2 electricity generated by a light and power business. Except for
3 community solar projects, a system located on a leasehold interest does
4 not qualify under this definition. Except for utility-owned community
5 solar projects, "customer-generated electricity" does not include
6 electricity generated by a light and power business with greater than
7 one thousand megawatt hours of annual sales or a gas distribution
8 business.

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

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

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

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

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

24 (9) "Solar inverter" means the device used to convert direct
25 current to alternating current in a solar energy system.

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

29 (11) "Stirling converter" means a device that produces electricity
30 by converting heat from a solar source utilizing a stirling engine.

31 (12) "Commission" means the Washington state housing finance
32 commission and has the same meaning as provided in RCW 43.180.020.

33 (13) "Community or technical college" means a community college or
34 a technical college as defined under RCW 28B.50.030.

35 **Sec. 2.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to read
36 as follows:

37 (1)(a) Until July 1, 2014, any individual, business, local

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

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

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

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

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

23 (A) If the applicant is an administrator of a community solar
24 project as defined in RCW 82.16.110(2)(a)(i), the 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 must
29 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;

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

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

3 (F) Solar or wind equipment manufactured outside of Washington
4 state;

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

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

10 (b) Within thirty days of receipt of the certification the
11 department of revenue must notify the applicant by mail, or
12 electronically as provided in RCW 82.32.135, whether the renewable
13 energy system qualifies for an incentive under this section. The
14 department may consult with the climate and rural energy development
15 center to determine eligibility for the incentive. System
16 certifications and the information contained therein are subject to
17 disclosure under RCW 82.32.330(3)(1).

18 (3)(a) (~~By August 1st of each year application for the incentive~~
19 ~~must be made to the light and power business serving the situs of the~~
20 ~~system by certification~~) After a customer-generated electricity
21 renewable energy system is certified by the department of revenue, an
22 initial application for the incentive under this section must be made
23 to the participating utility serving the situs of the system in a form
24 and manner prescribed by the department that includes, but is not
25 limited to, the following information:

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

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

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

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

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

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

3 (b) Within sixty days of receipt of the incentive certification the
4 light and power business serving the situs of the system must notify
5 the applicant in writing whether the incentive payment will be
6 authorized or denied. The business may consult with the climate and
7 rural energy development center to determine eligibility for the
8 incentive payment. Incentive certifications and the information
9 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

10 (c) By August 1st of each year after the initial application is
11 made as required under (a) of this subsection, persons must provide a
12 statement in the form of a signed affidavit to the utility serving the
13 situs of the system of the amount of kilowatt-hours generated by the
14 renewable energy system in the prior fiscal year. The amount of
15 kilowatt-hours generated may be determined from a reading of the
16 inverter connected to the system.

17 (d)(i) Persons, administrators of community solar projects, and
18 companies receiving incentive payments must keep and preserve, for a
19 period of five years, suitable records as may be necessary to determine
20 the amount of incentive applied for and received. Such records must be
21 open for examination at any time upon notice by the light and power
22 business that made the payment or by the department. If upon
23 examination of any records or from other information obtained by the
24 business or department it appears that an incentive has been paid in an
25 amount that exceeds the correct amount of incentive payable, the
26 business may assess against the person for the amount found to have
27 been paid in excess of the correct amount of incentive payable and must
28 add thereto interest on the amount. Interest is assessed in the manner
29 that the department assesses interest upon delinquent tax under RCW
30 82.32.050.

31 (ii) If it appears that the amount of incentive paid is less than
32 the correct amount of incentive payable the business may authorize
33 additional payment.

34 (4) Except for community solar projects, the investment cost
35 recovery incentive may be paid fifteen cents per economic development
36 kilowatt-hour unless requests exceed the amount authorized for credit
37 to the participating light and power business. For community solar
38 projects, the investment cost recovery incentive may be paid thirty

1 cents per economic development kilowatt-hour unless requests exceed the
2 amount authorized for credit to the participating light and power
3 business. For the purposes of this section, the rate paid for the
4 investment cost recovery incentive may be multiplied by the following
5 factors:

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

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

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

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

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

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

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

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

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

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

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

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

12 (9) Participants in a community solar project as defined in RCW
13 82.16.110(2)(a)(i) or a company-owned community solar project as
14 defined in RCW 82.16.110(2)(a)(iii) who were deemed in compliance and
15 received payment under the program prior to December 31, 2012, may
16 continue to receive incentive payments through July 1, 2020.

17 (10) No incentive may be paid under this section for kilowatt-hours
18 generated before July 1, 2005, or after June 30, 2014, except that any
19 entity receiving incentive payments under this section on the effective
20 date of this section may continue to receive payments until July 1,
21 2020.

22 NEW SECTION. Sec. 3. A new section is added to chapter 82.16 RCW
23 to read as follows:

24 (1) A renewable energy system cost recovery incentive program is
25 created to be administered by the commission. Utility participation in
26 the program is voluntary.

27 (2)(a) Beginning July 1, 2014, the following may apply for cost
28 recovery incentives under this section: Any person, other than a
29 utility or a gas distribution business, who owns a customer-generated
30 electricity renewable energy system; or a participant in a community
31 solar project as defined in RCW 82.16.110(2)(a). A person must first
32 apply to the commission for certification that a customer-generated
33 electricity renewable energy system is eligible to receive an
34 incentive. The certification application may be in a form and manner
35 prescribed by the commission that includes, but is not limited to, the
36 following information:

- 1 (i) The name and address of the applicant and location of the
- 2 renewable energy system;
- 3 (ii) The applicant's tax registration number;
- 4 (iii) That the electricity produced by the applicant meets the
- 5 definition of "customer-generated electricity" and that the renewable
- 6 energy system produces electricity with:
 - 7 (A) Any solar inverters and solar modules manufactured in
 - 8 Washington state;
 - 9 (B) A wind generator powered by blades manufactured in Washington
 - 10 state;
 - 11 (C) A solar inverter manufactured in Washington state;
 - 12 (D) A solar module manufactured in Washington state;
 - 13 (E) A stirling converter manufactured in Washington state; or
 - 14 (F) Solar or wind equipment manufactured outside of Washington
 - 15 state;
- 16 (iv) That the electricity can be transformed or transmitted for
- 17 entry into or operation in parallel with electricity transmission and
- 18 distribution systems; and
- 19 (v) The date that the renewable energy system received its final
- 20 electrical permit from the applicable local jurisdiction.
- 21 (b) When determining if eligible equipment is manufactured in
- 22 Washington state, the commission must rely on the opinion of the
- 23 Washington State University energy extension program.
- 24 (c) Within thirty days of receipt of the application the commission
- 25 must notify the applicant by mail, or electronically as provided in RCW
- 26 82.32.135, whether the renewable energy system is certified for an
- 27 incentive under this section. System certifications and the
- 28 information contained therein are subject to disclosure under RCW
- 29 82.32.330(3)(1).
- 30 (3)(a) After a customer-generated electricity renewable energy
- 31 system is certified by the commission, an initial application for the
- 32 incentive under this section must be made to the participating utility
- 33 serving the situs of the system by a form and manner prescribed by the
- 34 commission that includes, but is not limited to, the following
- 35 information:
 - 36 (i) The name and address of the applicant and location of the
 - 37 renewable energy system;
 - 38 (ii) The applicant's tax registration number;

1 (iii) The date of the notification from the commission stating that
2 the renewable energy system is eligible for the incentives under this
3 section; and

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

6 (b) By August 1st of each year after the initial application is
7 made, as required under (a) of this subsection, persons must provide a
8 statement in the form of a signed affidavit to the utility serving the
9 situs of the system of the amount of kilowatt-hours generated by the
10 renewable energy system in the prior fiscal year. The amount of
11 kilowatt-hours generated may be determined from a reading of the
12 inverter connected to the system.

13 (c) Within sixty days of receipt of the incentive application the
14 utility serving the situs of the system must notify the applicant in
15 writing whether the application is accepted. A participating utility
16 must pay the successful applicant incentive payments as calculated
17 under subsection (4) of this section.

18 (d)(i) Persons receiving incentive payments must keep and preserve,
19 for a period of five years, suitable records as may be necessary to
20 determine the amount of incentive applied for and received. Such
21 records must be open for examination at any time upon notice by the
22 utility that made the payment or by the department of revenue. If upon
23 examination of any records or from other information obtained by the
24 utility or department it appears that an incentive has been paid in an
25 amount that exceeds the correct amount of incentive payable, the
26 utility may assess against the person for the amount found to have been
27 paid in excess of the correct amount of incentive payable and must add
28 thereto interest on the amount. Interest is assessed in the manner
29 that the department of revenue assesses interest upon delinquent tax
30 under RCW 82.32.050.

31 (ii) If it appears that the amount of incentive paid is less than
32 the correct amount of incentive payable the utility may authorize
33 additional payment.

34 (4) The incentive is fifteen cents per kilowatt-hour generated
35 unless requests exceed the amount authorized for credit to the
36 participating utility. For community solar projects, the incentive is
37 twenty cents per kilowatt-hour generated unless requests exceed the

1 amount authorized for credit to the participating utility. For the
2 purposes of this section, the rate paid for the incentive must be
3 multiplied by the following factors:

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

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

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

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

15 (5)(a) Except as provided in (b) of this subsection (5), no person
16 is eligible for incentives provided under this section for more than
17 five thousand dollars per year.

18 (b) In the case of a utility-owned community solar project as
19 defined in RCW 82.16.110(2)(a)(ii), each ratepayer that contributes to
20 the project is eligible for an incentive in proportion to the
21 contribution, up to five thousand dollars per year.

22 (6) The Washington State University energy extension program must
23 establish guidelines for technologies that are identified as Washington
24 manufactured. The university must use the guidelines when advising the
25 commission.

26 (7)(a) Except as provided in (b) of this subsection (7), the
27 environmental attributes of the renewable energy system belong to the
28 applicant, and do not transfer to the state or the utility upon receipt
29 of the incentive.

30 (b) In the case of a utility-owned community solar project as
31 defined in RCW 82.16.110(2)(a)(ii), the environmental attributes of the
32 renewable energy system belong to the utility.

33 (8) Utilities participating in the renewable energy system cost
34 recovery program must offer ten-year contracts for the payment of
35 incentives. The remainder of a contract may be transferrable to a new
36 owner of the situs of the renewable energy system.

37 (a) If the ability of all utilities to receive a tax credit under
38 section 5 of this act is eliminated, payments made by utilities to

1 participants in the program are discontinued and no new ten-year
2 contracts for the incentive may be offered by utilities. If the
3 ability of all utilities to receive a tax credit under section 5 of
4 this act is reduced, incentive payments made by utilities to
5 participants in the program must be reduced in proportion to the
6 reduction of credits. Contracts offered by utilities to program
7 participants must include a provision that specifies that if the
8 ability for all utilities to receive a tax credit under section 5 of
9 this act is eliminated or reduced, incentive payments made by the
10 utility to participants in the program must be eliminated or reduced in
11 proportion to the reduction of credits allowed under section 5 of this
12 act.

13 (b) The remainder of a contract may be transferrable to a new owner
14 of the situs of the renewable energy system.

15 (9) Utilities participating in the renewable energy system cost
16 recovery program may charge applicants an administrative fee.

17 (10) No incentive may be paid under this section for kilowatt-hours
18 generated before July 1, 2014, or after June 30, 2024, except that a
19 person receiving payments under a ten-year contract may receive
20 payments until July 1, 2034, or until the end of the contract,
21 whichever is sooner.

22 (11) The commission is authorized to fix, revise, and collect fees
23 and charges in connection with the creation and administration of the
24 renewable energy investment cost recovery program established in this
25 section, in addition to any general power already set forth in RCW
26 43.180.080(6).

27 (12) The following definitions apply throughout this section unless
28 the context clearly requires otherwise.

29 (a) "Customer-generated electricity" means the alternating current
30 electricity that is generated from a renewable energy system or
31 utility-owned community solar energy system located in Washington state
32 and installed on a residence, a business, or real property owned by a
33 local government or federally recognized Indian tribal government that
34 is also provided electricity by a utility. Except for utility-owned
35 community solar projects, a system located on a leasehold interest does
36 not qualify under this definition.

37 (b) "Person" means an individual, business, federally recognized

1 Indian tribe, local government entity, community or technical college,
2 nonprofit organization, or a participant in a community solar project
3 as defined in RCW 82.16.110(2)(a).

4 (c) "Utility" means a light and power business as defined in RCW
5 82.16.010.

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

8 (1) A light and power business (~~shall~~) must be allowed a credit
9 against taxes due under this chapter in an amount equal to investment
10 cost recovery incentive payments made in any fiscal year under RCW
11 82.16.120. The credit (~~shall~~) must be taken in a form and manner as
12 required by the department. The credit under this section for the
13 fiscal year may not exceed one-half percent of the businesses' taxable
14 power sales due under RCW 82.16.020(1)(b) or one hundred thousand
15 dollars, whichever is greater. Incentive payments to participants in
16 a utility-owned community solar project as defined in RCW
17 82.16.110(2)(a)(ii) may only account for up to twenty-five percent of
18 the total allowable credit. Incentive payments to participants in a
19 company-owned community solar project as defined in RCW
20 82.16.110(2)(a)(iii) may only account for up to five percent of the
21 total allowable credit. The credit may not exceed the tax that would
22 otherwise be due under this chapter. Refunds (~~shall~~) may not be
23 granted in the place of credits. Expenditures not used to earn a
24 credit in one fiscal year may not be used to earn a credit in
25 subsequent years.

26 (2) For any business that has claimed credit for amounts that
27 exceed the correct amount of the incentive payable under RCW 82.16.120,
28 the amount of tax against which credit was claimed for the excess
29 payments (~~shall be~~) are immediately due and payable. The department
30 (~~shall~~) must assess interest but not penalties on the taxes against
31 which the credit was claimed. Interest (~~shall~~) must be assessed at
32 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
33 retroactively to the date the credit was claimed, and (~~shall~~) accrues
34 until the taxes against which the credit was claimed are repaid.

35 (3) The right to earn tax credits under this section expires (~~June~~
36 ~~30,~~) July 1, 2020. Credits may not be claimed after June 30, 2021.

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

3 (1) Beginning July 1, 2014, a utility is allowed a credit against
4 taxes due under this chapter in an amount equal to cost recovery
5 incentive payments made in any fiscal year under section 3 of this act.
6 The credit must be taken in a form and manner as required by the
7 department of revenue. The credit under this section for the fiscal
8 year may not exceed one-half percent of the utility's taxable power
9 sales due under RCW 82.16.020(1)(b) or two hundred fifty thousand
10 dollars, whichever is greater. Incentive payments to participants in
11 a utility-owned community solar project as defined in RCW
12 82.16.110(2)(a)(ii) may only account for up to twenty-five percent of
13 the total allowable credit. Incentive payments to participants in a
14 company-owned community solar project as defined in RCW
15 82.16.110(2)(a)(iii) may only account for up to five percent of the
16 total allowable credit. The credit may not exceed the tax that would
17 otherwise be due under this chapter. Refunds may not be granted in the
18 place of credits. Expenditures not used to earn a credit in one fiscal
19 year may not be used to earn a credit in subsequent years.

20 (2) For any utility that has claimed credit for amounts that exceed
21 the correct amount of the incentive payable under RCW 82.16.120, the
22 amount of tax against which credit was claimed for the excess payments
23 is immediately due and payable. The department of revenue must assess
24 interest but not penalties on the taxes against which the credit was
25 claimed. Interest must be assessed at the rate provided for delinquent
26 excise taxes under chapter 82.32 RCW, retroactively to the date the
27 credit was claimed, and accrues until the taxes against which the
28 credit was claimed are repaid.

29 (3) The right to earn tax credits under this section expires July
30 1, 2034. Credits may not be claimed after June 30, 2035.

31 (4) For the purpose of this section, "utility" means a light and
32 power business as defined in RCW 82.16.010.

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