

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5101**

59th Legislature  
2005 Regular Session

Passed by the Senate April 20, 2005  
YEAS 46 NAYS 0

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**President of the Senate**

Passed by the House April 13, 2005  
YEAS 96 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5101** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5101**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Morton, Fraser, Rockefeller, Pridemore, Regala, Hewitt, Kline, Kohl-Welles, Brown and Oke)

READ FIRST TIME 03/08/05.

1            AN ACT Relating to providing incentives to support renewable  
2 energy; adding new sections to chapter 82.16 RCW; creating new  
3 sections; providing an effective date; and declaring an emergency.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that the use of  
6 renewable energy resources generated from local sources such as solar  
7 and wind power benefit our state by reducing the load on the state's  
8 electric energy grid, by providing nonpolluting sources of electricity  
9 generation, and by the creation of jobs for local industries that  
10 develop and sell renewable energy products and technologies.

11            The legislature finds that Washington state has become a national  
12 and international leader in the technologies related to the solar  
13 electric markets. The state can support these industries by providing  
14 incentives for the purchase of locally made renewable energy products.  
15 Locally made renewable technologies benefit and protect the state's  
16 environment. The legislature also finds that the state's economy can  
17 be enhanced through the creation of incentives to develop additional  
18 renewable energy industries in the state.

1 The legislature intends to provide incentives for the greater use  
2 of locally created renewable energy technologies, support and retain  
3 existing local industries, and create new opportunities for renewable  
4 energy industries to develop in Washington state.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Customer-generated electricity" means the alternating current  
8 electricity that is generated from a renewable energy system located on  
9 an individual's, businesses', or local government's real property that  
10 is also provided electricity generated by a light and power business.  
11 A system located on a leasehold interest does not qualify under this  
12 definition. "Customer-generated electricity" does not include  
13 electricity generated by a light and power business with greater than  
14 one thousand megawatt hours of annual sales or a gas distribution  
15 business.

16 (2) "Economic development kilowatt-hour" means the actual kilowatt-  
17 hour measurement of customer-generated electricity multiplied by the  
18 appropriate economic development factor.

19 (3) "Photovoltaic cell" means a device that converts light directly  
20 into electricity without moving parts.

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

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

27 (6) "Solar inverter" means the device used to convert direct  
28 current to alternating current in a photovoltaic cell system.

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

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

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

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

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

33        (i) The name and address of the applicant and location of the  
34 renewable energy system;

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

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

1 (A) Any solar inverters and solar modules manufactured in  
2 Washington state;

3 (B) A wind generator powered by blades manufactured in Washington  
4 state;

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

6 (D) A solar module manufactured in Washington state; or

7 (E) Solar or wind equipment manufactured outside of Washington  
8 state;

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

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

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

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

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

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

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

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

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

1 rural energy development center to determine eligibility for the  
2 incentive payment. Incentive certifications and the information  
3 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

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

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

20 (5) The investment cost recovery incentive may be paid fifteen  
21 cents per economic development kilowatt-hour unless requests exceed the  
22 amount authorized for credit to the participating light and power  
23 business. For the purposes of this section, the rate paid for the  
24 investment cost recovery incentive may be multiplied by the following  
25 factors:

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

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

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

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

36 (6) No individual, household, business, or local governmental  
37 entity is eligible for incentives for more than two thousand dollars  
38 per year.

1 (7) 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 shall be reduced  
4 proportionately.

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

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

13 NEW SECTION. **Sec. 4.** (1) A light and power business shall be  
14 allowed a credit against taxes due under this chapter in an amount  
15 equal to investment cost recovery incentive payments made in any fiscal  
16 year under section 3 of this act. The credit shall be taken in a form  
17 and manner as required by the department. The credit under this  
18 section for the fiscal year shall not exceed twenty-five one-hundredths  
19 of one percent of the businesses' taxable power sales due under RCW  
20 82.16.020(1)(b) or twenty-five thousand dollars, whichever is greater.  
21 The credit may not exceed the tax that would otherwise be due under  
22 this chapter. Refunds shall not be granted in the place of credits.  
23 Expenditures not used to earn a credit in one fiscal year may not be  
24 used to earn a credit in subsequent years.

25 (2) For any business that has claimed credit for amounts that  
26 exceed the correct amount of the incentive payable under section 3 of  
27 this act, the amount of tax against which credit was claimed for the  
28 excess payments shall be immediately due and payable. The department  
29 shall assess interest but not penalties on the taxes against which the  
30 credit was claimed. Interest shall be assessed at the rate provided  
31 for delinquent excise taxes under chapter 82.32 RCW, retroactively to  
32 the date the credit was claimed, and shall accrue until the taxes  
33 against which the credit was claimed are repaid.

34 (3) The right to earn tax credits under this section expires June  
35 30, 2015. Credits may not be claimed after June 30, 2016.

1        NEW SECTION.    **Sec. 5.**    (1) Using existing sources of information,  
2        the department shall report to the house appropriations committee, the  
3        house committee dealing with energy issues, the senate committee on  
4        ways and means, and the senate committee dealing with energy issues by  
5        December 1, 2009.    The report shall measure the impacts of this act,  
6        including the total number of solar energy system manufacturing  
7        companies in the state, any change in the number of solar energy system  
8        manufacturing companies in the state, and, where relevant, the effect  
9        on job creation, the number of jobs created for Washington residents,  
10       and such other factors as the department selects.

11       (2) The department shall not conduct any new surveys to provide the  
12       report in subsection (1) of this section.

13       NEW SECTION.    **Sec. 6.**    If specific funding for the purposes of this  
14       act, referencing this act by bill or chapter number, is not provided by  
15       June 30, 2005, in the omnibus appropriations act, this act is null and  
16       void.

17       NEW SECTION.    **Sec. 7.**    Sections 2 through 5 of this act are each  
18       added to chapter 82.16 RCW.

19       NEW SECTION.    **Sec. 8.**    This act is necessary for the immediate  
20       preservation of the public peace, health, or safety, or support of the  
21       state government and its existing public institutions, and takes effect  
22       July 1, 2005.

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