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**SUBSTITUTE HOUSE BILL 2138**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Finance (originally sponsored by Representatives G. Chandler, Linville, Mulliken, Clements, Ericksen, Hatfield, Sump, Doumit, Morell, Grant, Pearson, Schoesler, Barlean, Buck, B. Chandler, Edwards and Jackley)

Read first time 03/08/2001. Referred to Committee on .

1 AN ACT Relating to rural economic development; amending RCW  
2 82.04.050, 82.04.120, and 82.60.020; reenacting and amending RCW  
3 82.04.260; adding new sections to chapter 84.36 RCW; adding a new  
4 section to chapter 84.55 RCW; adding new sections to chapter 82.08 RCW;  
5 adding new sections to chapter 82.12 RCW; adding a new section to  
6 chapter 82.04 RCW; and creating new sections.

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

8 **PART I: Livestock Pharmaceuticals**

9 **Sec. 1.** RCW 82.04.050 and 2000 2nd sp.s. c 4 s 23 are each amended  
10 to read as follows:

11 (1) "Sale at retail" or "retail sale" means every sale of tangible  
12 personal property (including articles produced, fabricated, or  
13 imprinted) to all persons irrespective of the nature of their business  
14 and including, among others, without limiting the scope hereof, persons  
15 who install, repair, clean, alter, improve, construct, or decorate real  
16 or personal property of or for consumers other than a sale to a person  
17 who presents a resale certificate under RCW 82.04.470 and who:

1 (a) Purchases for the purpose of resale as tangible personal  
2 property in the regular course of business without intervening use by  
3 such person, but a purchase for the purpose of resale by a regional  
4 transit authority under RCW 81.112.300 is not a sale for resale; or

5 (b) Installs, repairs, cleans, alters, imprints, improves,  
6 constructs, or decorates real or personal property of or for consumers,  
7 if such tangible personal property becomes an ingredient or component  
8 of such real or personal property without intervening use by such  
9 person; or

10 (c) Purchases for the purpose of consuming the property purchased  
11 in producing for sale a new article of tangible personal property or  
12 substance, of which such property becomes an ingredient or component or  
13 is a chemical used in processing, when the primary purpose of such  
14 chemical is to create a chemical reaction directly through contact with  
15 an ingredient of a new article being produced for sale; or

16 (d) Purchases for the purpose of consuming the property purchased  
17 in producing ferrosilicon which is subsequently used in producing  
18 magnesium for sale, if the primary purpose of such property is to  
19 create a chemical reaction directly through contact with an ingredient  
20 of ferrosilicon; or

21 (e) Purchases for the purpose of providing the property to  
22 consumers as part of competitive telephone service, as defined in RCW  
23 82.04.065. The term shall include every sale of tangible personal  
24 property which is used or consumed or to be used or consumed in the  
25 performance of any activity classified as a "sale at retail" or "retail  
26 sale" even though such property is resold or utilized as provided in  
27 (a), (b), (c), (d), or (e) of this subsection following such use. The  
28 term also means every sale of tangible personal property to persons  
29 engaged in any business which is taxable under RCW 82.04.280 (2) and  
30 (7) and 82.04.290.

31 (2) The term "sale at retail" or "retail sale" shall include the  
32 sale of or charge made for tangible personal property consumed and/or  
33 for labor and services rendered in respect to the following:

34 (a) The installing, repairing, cleaning, altering, imprinting, or  
35 improving of tangible personal property of or for consumers, including  
36 charges made for the mere use of facilities in respect thereto, but  
37 excluding charges made for the use of coin-operated laundry facilities  
38 when such facilities are situated in an apartment house, rooming house,  
39 or mobile home park for the exclusive use of the tenants thereof, and

1 also excluding sales of laundry service to nonprofit health care  
2 facilities, and excluding services rendered in respect to live animals,  
3 birds and insects;

4 (b) The constructing, repairing, decorating, or improving of new or  
5 existing buildings or other structures under, upon, or above real  
6 property of or for consumers, including the installing or attaching of  
7 any article of tangible personal property therein or thereto, whether  
8 or not such personal property becomes a part of the realty by virtue of  
9 installation, and shall also include the sale of services or charges  
10 made for the clearing of land and the moving of earth excepting the  
11 mere leveling of land used in commercial farming or agriculture;

12 (c) The charge for labor and services rendered in respect to  
13 constructing, repairing, or improving any structure upon, above, or  
14 under any real property owned by an owner who conveys the property by  
15 title, possession, or any other means to the person performing such  
16 construction, repair, or improvement for the purpose of performing such  
17 construction, repair, or improvement and the property is then  
18 reconveyed by title, possession, or any other means to the original  
19 owner;

20 (d) The sale of or charge made for labor and services rendered in  
21 respect to the cleaning, fumigating, razing or moving of existing  
22 buildings or structures, but shall not include the charge made for  
23 janitorial services; and for purposes of this section the term  
24 "janitorial services" shall mean those cleaning and caretaking services  
25 ordinarily performed by commercial janitor service businesses  
26 including, but not limited to, wall and window washing, floor cleaning  
27 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
28 The term "janitorial services" does not include painting, papering,  
29 repairing, furnace or septic tank cleaning, snow removal or  
30 sandblasting;

31 (e) The sale of or charge made for labor and services rendered in  
32 respect to automobile towing and similar automotive transportation  
33 services, but not in respect to those required to report and pay taxes  
34 under chapter 82.16 RCW;

35 (f) The sale of and charge made for the furnishing of lodging and  
36 all other services by a hotel, rooming house, tourist court, motel,  
37 trailer camp, and the granting of any similar license to use real  
38 property, as distinguished from the renting or leasing of real  
39 property, and it shall be presumed that the occupancy of real property

1 for a continuous period of one month or more constitutes a rental or  
2 lease of real property and not a mere license to use or enjoy the same;

3 (g) The sale of or charge made for tangible personal property,  
4 labor and services to persons taxable under (a), (b), (c), (d), (e),  
5 and (f) of this subsection when such sales or charges are for property,  
6 labor and services which are used or consumed in whole or in part by  
7 such persons in the performance of any activity defined as a "sale at  
8 retail" or "retail sale" even though such property, labor and services  
9 may be resold after such use or consumption. Nothing contained in this  
10 subsection shall be construed to modify subsection (1) of this section  
11 and nothing contained in subsection (1) of this section shall be  
12 construed to modify this subsection.

13 (3) The term "sale at retail" or "retail sale" shall include the  
14 sale of or charge made for personal, business, or professional services  
15 including amounts designated as interest, rents, fees, admission, and  
16 other service emoluments however designated, received by persons  
17 engaging in the following business activities:

18 (a) Amusement and recreation services including but not limited to  
19 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips  
20 for sightseeing purposes, and others, when provided to consumers;

21 (b) Abstract, title insurance, and escrow services;

22 (c) Credit bureau services;

23 (d) Automobile parking and storage garage services;

24 (e) Landscape maintenance and horticultural services but excluding  
25 (i) horticultural services provided to farmers and (ii) pruning,  
26 trimming, repairing, removing, and clearing of trees and brush near  
27 electric transmission or distribution lines or equipment, if performed  
28 by or at the direction of an electric utility;

29 (f) Service charges associated with tickets to professional  
30 sporting events; and

31 (g) The following personal services: Physical fitness services,  
32 tanning salon services, tattoo parlor services, steam bath services,  
33 turkish bath services, escort services, and dating services.

34 (4) The term shall also include the renting or leasing of tangible  
35 personal property to consumers and the rental of equipment with an  
36 operator.

37 (5) The term shall also include the providing of telephone service,  
38 as defined in RCW 82.04.065, to consumers.

1 (6) The term shall also include the sale of canned software other  
2 than a sale to a person who presents a resale certificate under RCW  
3 82.04.470, regardless of the method of delivery to the end user, but  
4 shall not include custom software or the customization of canned  
5 software.

6 (7) The term shall not include the sale of or charge made for labor  
7 and services rendered in respect to the building, repairing, or  
8 improving of any street, place, road, highway, easement, right of way,  
9 mass public transportation terminal or parking facility, bridge,  
10 tunnel, or trestle which is owned by a municipal corporation or  
11 political subdivision of the state or by the United States and which is  
12 used or to be used primarily for foot or vehicular traffic including  
13 mass transportation vehicles of any kind.

14 (8) The term shall also not include sales of chemical sprays or  
15 washes to persons for the purpose of postharvest treatment of fruit for  
16 the prevention of scald, fungus, mold, or decay, nor shall it include  
17 sales of feed, seed, seedlings, fertilizer, agents for enhanced  
18 pollination including insects such as bees, substances used to optimize  
19 animal production, vaccinations, antibiotics, parasite treatment  
20 compounds, animal pharmaceuticals approved by the United States food  
21 and drug administration, and other health products for animals, and  
22 spray materials to: (a) Persons who participate in the federal  
23 conservation reserve program, the environmental quality incentives  
24 program, the wetlands reserve program, and the wildlife habitat  
25 incentives program, or their successors administered by the United  
26 States department of agriculture; (b) farmers for the purpose of  
27 producing for sale any agricultural product; and (c) farmers acting  
28 under cooperative habitat development or access contracts with an  
29 organization exempt from federal income tax under 26 U.S.C. Sec.  
30 501(c)(3) or the Washington state department of fish and wildlife to  
31 produce or improve wildlife habitat on land that the farmer owns or  
32 leases.

33 (9) The term shall not include the sale of or charge made for labor  
34 and services rendered in respect to the constructing, repairing,  
35 decorating, or improving of new or existing buildings or other  
36 structures under, upon, or above real property of or for the United  
37 States, any instrumentality thereof, or a county or city housing  
38 authority created pursuant to chapter 35.82 RCW, including the  
39 installing, or attaching of any article of tangible personal property

1 therein or thereto, whether or not such personal property becomes a  
2 part of the realty by virtue of installation. Nor shall the term  
3 include the sale of services or charges made for the clearing of land  
4 and the moving of earth of or for the United States, any  
5 instrumentality thereof, or a county or city housing authority. Nor  
6 shall the term include the sale of services or charges made for  
7 cleaning up for the United States, or its instrumentalities,  
8 radioactive waste and other byproducts of weapons production and  
9 nuclear research and development.

10 (10) Until July 1, 2003, the term shall not include the sale of or  
11 charge made for labor and services rendered for environmental remedial  
12 action as defined in RCW 82.04.2635(2).

13 **PART II: Personal Property Tax**

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 84.36 RCW  
15 to read as follows:

16 (1) All machinery and equipment owned by a farmer that is personal  
17 property is exempt from property taxes levied for any state purpose if  
18 it is used exclusively in growing and producing agricultural products  
19 during the calendar year for which the claim for exemption is made.

20 (2) "Farmer" has the same meaning as defined in RCW 82.04.213.

21 (3) A claim for exemption under this section shall be filed with  
22 the county assessor together with the verified statement required under  
23 RCW 84.40.190, for exemption from taxes payable the following year.  
24 The claim shall be made solely upon forms as prescribed and furnished  
25 by the department of revenue.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 84.55 RCW  
27 to read as follows:

28 The levy for the state in any year shall be reduced as necessary to  
29 prevent exemptions under section 2 of this act from resulting in a  
30 higher tax rate than would have occurred in the absence of the  
31 exemptions under section 2 of this act.

32 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act apply to taxes  
33 levied for collection in 2003 and thereafter.

34 **PART III: Dairy Products B&O Tax Exemption**

1        NEW SECTION.    **Sec. 5.**    The purpose of sections 6 and 7 of this act  
2 is to provide a tax rate for persons who manufacture dairy products  
3 that is commensurate to the rate imposed on certain other processors of  
4 agricultural commodities.    This tax rate applies to persons who  
5 manufacture dairy products from raw materials such as fluid milk,  
6 dehydrated milk, or byproducts of milk such as cream, buttermilk, whey,  
7 butter, or casein.    It is not the intent of the legislature to provide  
8 this tax rate to persons who use dairy products as an ingredient or  
9 component of their manufactured product, such as milk-based soups or  
10 pizza.    It is the intent that persons who manufacture products such as  
11 milk, cheese, yogurt, ice cream, whey, or whey products be subject to  
12 this rate.

13        **Sec. 6.**    RCW 82.04.260 and 1998 c 312 s 5 and 1998 c 311 s 2 are  
14 each reenacted and amended to read as follows:

15        (1) Upon every person engaging within this state in the business of  
16 manufacturing:

17        (a) Wheat into flour, barley into pearl barley, soybeans into  
18 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
19 or sunflower seeds into sunflower oil; as to such persons the amount of  
20 tax with respect to such business shall be equal to the value of the  
21 flour, pearl barley, oil, canola meal, or canola byproduct  
22 manufactured, multiplied by the rate of 0.138 percent;

23        (b) Seafood products which remain in a raw, raw frozen, or raw  
24 salted state at the completion of the manufacturing by that person; as  
25 to such persons the amount of tax with respect to such business shall  
26 be equal to the value of the products manufactured, multiplied by the  
27 rate of 0.138 percent; ((and))

28        (c) By canning, preserving, freezing, processing, or dehydrating  
29 fresh fruits and vegetables, or selling at wholesale fresh fruits and  
30 vegetables canned, preserved, frozen, processed, or dehydrated by the  
31 seller and sold to purchasers who transport in the ordinary course of  
32 business the goods out of this state; as to such persons the amount of  
33 tax with respect to such business shall be equal to the value of the  
34 products canned, preserved, frozen, processed, or dehydrated multiplied  
35 by the rate of 0.138 percent.    As proof of sale to a person who  
36 transports in the ordinary course of business goods out of this state,  
37 the seller shall annually provide a statement in a form prescribed by  
38 the department and retain the statement as a business record; and

1        (d) Dairy products that as of the effective date of this section  
2 are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,  
3 including byproducts from the manufacturing of the dairy products such  
4 as whey and casein; or selling the same to purchasers who transport in  
5 the ordinary course of business the goods out of state; as to such  
6 persons the tax imposed shall be equal to the value of the products  
7 manufactured multiplied by the rate of 0.138 percent. As proof of sale  
8 to a person who transports in the ordinary course of business goods out  
9 of this state, the seller shall annually provide a statement in a form  
10 prescribed by the department and retain the statement as a business  
11 record.

12        (2) Upon every person engaging within this state in the business of  
13 splitting or processing dried peas; as to such persons the amount of  
14 tax with respect to such business shall be equal to the value of the  
15 peas split or processed, multiplied by the rate of 0.138 percent.

16        (3) Upon every nonprofit corporation and nonprofit association  
17 engaging within this state in research and development, as to such  
18 corporations and associations, the amount of tax with respect to such  
19 activities shall be equal to the gross income derived from such  
20 activities multiplied by the rate of 0.484 percent.

21        (4) Upon every person engaging within this state in the business of  
22 slaughtering, breaking and/or processing perishable meat products  
23 and/or selling the same at wholesale only and not at retail; as to such  
24 persons the tax imposed shall be equal to the gross proceeds derived  
25 from such sales multiplied by the rate of 0.138 percent.

26        (5) Upon every person engaging within this state in the business of  
27 making sales, at retail or wholesale, of nuclear fuel assemblies  
28 manufactured by that person, as to such persons the amount of tax with  
29 respect to such business shall be equal to the gross proceeds of sales  
30 of the assemblies multiplied by the rate of 0.275 percent.

31        (6) Upon every person engaging within this state in the business of  
32 manufacturing nuclear fuel assemblies, as to such persons the amount of  
33 tax with respect to such business shall be equal to the value of the  
34 products manufactured multiplied by the rate of 0.275 percent.

35        (7) Upon every person engaging within this state in the business of  
36 acting as a travel agent or tour operator; as to such persons the  
37 amount of the tax with respect to such activities shall be equal to the  
38 gross income derived from such activities multiplied by the rate of  
39 0.275 percent.

1 (8) Upon every person engaging within this state in business as an  
2 international steamship agent, international customs house broker,  
3 international freight forwarder, vessel and/or cargo charter broker in  
4 foreign commerce, and/or international air cargo agent; as to such  
5 persons the amount of the tax with respect to only international  
6 activities shall be equal to the gross income derived from such  
7 activities multiplied by the rate of 0.275 percent.

8 (9) Upon every person engaging within this state in the business of  
9 stevedoring and associated activities pertinent to the movement of  
10 goods and commodities in waterborne interstate or foreign commerce; as  
11 to such persons the amount of tax with respect to such business shall  
12 be equal to the gross proceeds derived from such activities multiplied  
13 by the rate of 0.275 percent. Persons subject to taxation under this  
14 subsection shall be exempt from payment of taxes imposed by chapter  
15 82.16 RCW for that portion of their business subject to taxation under  
16 this subsection. Stevedoring and associated activities pertinent to  
17 the conduct of goods and commodities in waterborne interstate or  
18 foreign commerce are defined as all activities of a labor, service or  
19 transportation nature whereby cargo may be loaded or unloaded to or  
20 from vessels or barges, passing over, onto or under a wharf, pier, or  
21 similar structure; cargo may be moved to a warehouse or similar holding  
22 or storage yard or area to await further movement in import or export  
23 or may move to a consolidation freight station and be stuffed,  
24 unstuffed, containerized, separated or otherwise segregated or  
25 aggregated for delivery or loaded on any mode of transportation for  
26 delivery to its consignee. Specific activities included in this  
27 definition are: Wharfage, handling, loading, unloading, moving of  
28 cargo to a convenient place of delivery to the consignee or a  
29 convenient place for further movement to export mode; documentation  
30 services in connection with the receipt, delivery, checking, care,  
31 custody and control of cargo required in the transfer of cargo;  
32 imported automobile handling prior to delivery to consignee; terminal  
33 stevedoring and incidental vessel services, including but not limited  
34 to plugging and unplugging refrigerator service to containers,  
35 trailers, and other refrigerated cargo receptacles, and securing ship  
36 hatch covers.

37 (10) Upon every person engaging within this state in the business  
38 of disposing of low-level waste, as defined in RCW 43.145.010; as to  
39 such persons the amount of the tax with respect to such business shall

1 be equal to the gross income of the business, excluding any fees  
2 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
3 percent.

4 If the gross income of the taxpayer is attributable to activities  
5 both within and without this state, the gross income attributable to  
6 this state shall be determined in accordance with the methods of  
7 apportionment required under RCW 82.04.460.

8 (11) Upon every person engaging within this state as an insurance  
9 agent, insurance broker, or insurance solicitor licensed under chapter  
10 48.17 RCW; as to such persons, the amount of the tax with respect to  
11 such licensed activities shall be equal to the gross income of such  
12 business multiplied by the rate of 0.484 percent.

13 (12) Upon every person engaging within this state in business as a  
14 hospital, as defined in chapter 70.41 RCW, that is operated as a  
15 nonprofit corporation or by the state or any of its political  
16 subdivisions, as to such persons, the amount of tax with respect to  
17 such activities shall be equal to the gross income of the business  
18 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
19 percent thereafter. The moneys collected under this subsection shall  
20 be deposited in the health services account created under RCW  
21 43.72.900.

#### 22 **PART IV: Retail Sales Tax Exemption - Poultry Farming**

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08 RCW  
24 to read as follows:

25 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
26 farmers of propane or natural gas used to heat structures used to house  
27 chickens. The propane or natural gas must be used exclusively to heat  
28 the structures. The structures must be used exclusively to house  
29 chickens that are sold as agricultural products.

30 (2) The exemption is available only when the buyer provides the  
31 seller with an exemption certificate in a form and manner prescribed by  
32 the department. The seller must retain a copy of the certificate for  
33 the seller's files.

34 (3) The definitions in this subsection apply to this section and  
35 section 8 of this act.

36 (a) "Structures" means barns, sheds, and other similar buildings in  
37 which chickens are housed.

1 (b) "Farmer" has the same meaning as provided in RCW 82.04.213.

2 (c) "Agricultural product" has the same meaning as provided in RCW  
3 82.04.213.

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

6 (1) The provisions of this chapter do not apply with respect to the  
7 use by a farmer of propane or natural gas to heat structures used to  
8 house chickens. The propane or natural gas must be used exclusively to  
9 heat the structures used to house chickens. The structures must be  
10 used exclusively to house chickens that are sold as agricultural  
11 products.

12 (2) The exemption certificate, recordkeeping requirements, and  
13 definitions of section 7 of this act apply to this section.

14 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.08 RCW  
15 to read as follows:

16 (1) The tax levied by RCW 82.08.020 does not apply to sales to a  
17 farmer of bedding materials used to accumulate and facilitate the  
18 removal of chicken manure. The farmer must be raising chickens that  
19 are sold as agricultural products.

20 (2) The exemption is available only when the buyer provides the  
21 seller with an exemption certificate in a form and manner prescribed by  
22 the department. The seller must retain a copy of the certificate for  
23 the seller's files.

24 (3) The definitions in this subsection apply to this section and  
25 section 10 of this act.

26 (a) "Bedding materials" means wood shavings, straw, sawdust,  
27 shredded paper, and other similar materials.

28 (b) "Farmer" has the same meaning as provided in RCW 82.04.213.

29 (c) "Agricultural product" has the same meaning as provided in RCW  
30 82.04.213.

31 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.12 RCW  
32 to read as follows:

33 (1) The provisions of this chapter do not apply with respect to the  
34 use by a farmer of bedding materials used to accumulate and facilitate  
35 the removal of chicken manure. The farmer must be raising chickens  
36 that are sold as agricultural products.

1 (2) The exemption certificate, recordkeeping requirements, and  
2 definitions of section 9 of this act apply to this section.

3 **PART V: Controlled Atmosphere Storage Tax Exemption**

4 **Sec. 11.** RCW 82.04.120 and 1999 sp.s. c 9 s 1 are each amended to  
5 read as follows:

6 "To manufacture" embraces all activities of a commercial or  
7 industrial nature wherein labor or skill is applied, by hand or  
8 machinery, to materials so that as a result thereof a new, different or  
9 useful substance or article of tangible personal property is produced  
10 for sale or commercial or industrial use, and shall include: (1) The  
11 production or fabrication of special made or custom made articles; (2)  
12 the production or fabrication of dental appliances, devices,  
13 restorations, substitutes, or other dental laboratory products by a  
14 dental laboratory or dental technician; (3) cutting, delimiting, and  
15 measuring of felled, cut, or taken trees; and (4) crushing and/or  
16 blending of rock, sand, stone, gravel, or ore.

17 "To manufacture" shall not include: Conditioning of seed for use  
18 in planting; cubing hay or alfalfa; activities which consist of  
19 cutting, grading, or ice glazing seafood which has been cooked, frozen,  
20 or canned outside this state; the growing, harvesting, or producing of  
21 agricultural products; ~~((or))~~ packing of agricultural products,  
22 including sorting, washing, rinsing, grading, waxing, treating with  
23 fungicide, packaging, chilling, or placing in controlled atmospheric  
24 storage; or activities which consist of the assembly of an article from  
25 pumping equipment, motor equipment, or compressor equipment, including  
26 starters, controls, couplings, blowers, and other accessories for such  
27 equipment, if some of the equipment and accessories are purchased from  
28 another person and the amount paid for the purchased equipment and  
29 accessories is at least eighty percent of the costs of the goods sold,  
30 based on materials, labor, and direct overhead.

31 **Sec. 12.** RCW 82.60.020 and 1999 sp.s. c 9 s 2 are each amended to  
32 read as follows:

33 Unless the context clearly requires otherwise, the definitions in  
34 this section apply throughout this chapter.

35 (1) "Applicant" means a person applying for a tax deferral under  
36 this chapter.

1       (2) "Controlled atmosphere storage" means any storage warehouse  
2 consisting of one or more rooms, or one or more rooms in any one  
3 facility in which atmospheric gases are controlled in their amount and  
4 in degrees of temperature for the purpose of controlling the condition  
5 and maturity of any agricultural product in order that, upon removal,  
6 they may be designated as having been exposed to controlled atmosphere.

7       (3) "Department" means the department of revenue.

8       (~~(3)~~) (4) "Eligible area" means a county with fewer than one  
9 hundred persons per square mile as determined annually by the office of  
10 financial management and published by the department of revenue  
11 effective for the period July 1st through June 30th.

12       (~~(4)~~) (5)(a) "Eligible investment project" means an investment  
13 project in an eligible area as defined in subsection (~~(3)~~) (4) of  
14 this section.

15       (b) The lessor/owner of a qualified building is not eligible for a  
16 deferral unless the underlying ownership of the buildings, machinery,  
17 and equipment vests exclusively in the same person, or unless the  
18 lessor by written contract agrees to pass the economic benefit of the  
19 deferral to the lessee in the form of reduced rent payments.

20       (c) "Eligible investment project" does not include any portion of  
21 an investment project undertaken by a light and power business as  
22 defined in RCW 82.16.010(5), other than that portion of a cogeneration  
23 project that is used to generate power for consumption within the  
24 manufacturing site of which the cogeneration project is an integral  
25 part, or investment projects which have already received deferrals  
26 under this chapter.

27       (~~(5)~~) (6) "Investment project" means an investment in qualified  
28 buildings or qualified machinery and equipment, including labor and  
29 services rendered in the planning, installation, and construction of  
30 the project.

31       (~~(6)~~) (7) "Manufacturing" means the same as defined in RCW  
32 82.04.120. "Manufacturing" also includes computer programming, the  
33 production of computer software, and other computer-related services,  
34 and the activities performed by research and development laboratories  
35 and commercial testing laboratories.

36       (~~(7)~~) (8) "Person" has the meaning given in RCW 82.04.030.

37       (~~(8)~~) (9) "Qualified buildings" means construction of new  
38 structures, and expansion or renovation of existing structures for the  
39 purpose of increasing floor space or production capacity used for

1 manufacturing, controlled atmosphere storage, and research and  
2 development activities, including plant offices and warehouses or other  
3 facilities for the storage of raw material or finished goods if such  
4 facilities are an essential or an integral part of a factory, mill,  
5 plant, or laboratory used for manufacturing, controlled atmosphere  
6 storage, or research and development. If a building is used partly for  
7 manufacturing or research and development and partly for other  
8 purposes, the applicable tax deferral shall be determined by  
9 apportionment of the costs of construction under rules adopted by the  
10 department.

11 ~~((+9+))~~ (10) "Qualified machinery and equipment" means all new  
12 industrial and research fixtures, equipment, and support facilities  
13 that are an integral and necessary part of a manufacturing, controlled  
14 atmosphere storage, or research and development operation. "Qualified  
15 machinery and equipment" includes: Computers; software; data  
16 processing equipment; laboratory equipment; ~~((manufacturing))~~  
17 components such as belts, pulleys, shafts, and moving parts; molds,  
18 tools, and dies; operating structures; and all equipment used to  
19 control or operate the machinery.

20 ~~((+10+))~~ (11) "Recipient" means a person receiving a tax deferral  
21 under this chapter.

22 ~~((+11+))~~ (12) "Research and development" means the development,  
23 refinement, testing, marketing, and commercialization of a product,  
24 service, or process before commercial sales have begun. As used in  
25 this subsection, "commercial sales" excludes sales of prototypes or  
26 sales for market testing if the total gross receipts from such sales of  
27 the product, service, or process do not exceed one million dollars.

## 28 **PART VI: Anaerobic Digesters Tax Exemption**

29 NEW SECTION. **Sec. 13.** It is the intent of the legislature to  
30 provide tax exemptions and credits to assist dairy farmers to comply  
31 with the dairy nutrient management act, chapter 90.64 RCW, and to  
32 assist public or private entities to establish and operate anaerobic  
33 digesters to treat dairy nutrients on a regional or on-farm basis.

34 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.08 RCW  
35 to read as follows:

1 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
2 eligible persons of services rendered in respect to operating,  
3 repairing, cleaning, altering, or improving of dairy nutrient  
4 management equipment and facilities, or to sales of tangible personal  
5 property that becomes an ingredient or component of the equipment and  
6 facilities. The equipment and facilities must be used exclusively for  
7 activities necessary to implement a dairy nutrient management plan as  
8 required under chapter 90.64 RCW. This exemption applies to sales made  
9 after the dairy nutrient management plan is certified under chapter  
10 90.64 RCW.

11 (2)(a) The department of revenue must provide an exemption  
12 certificate to an eligible person upon application by that person. The  
13 department of agriculture must provide a list of eligible persons to  
14 the department of revenue. The application must be in a form and  
15 manner prescribed by the department and must contain information  
16 regarding the location of the dairy and other information the  
17 department may require.

18 (b) The exemption is available only when the buyer provides the  
19 seller with an exemption certificate in a form and manner prescribed by  
20 the department. The seller must retain a copy of the certificate for  
21 the seller's files.

22 (3) The definitions in this subsection apply to this section and  
23 section 15 of this act unless the context clearly requires otherwise:

24 (a) "Dairy nutrient management equipment and facilities" means  
25 machinery, equipment, and structures used in the handling and treatment  
26 of dairy manure, such as aerators, agitators, alley scrapers, augers,  
27 dams, gutter cleaners, loaders, lagoons, pipes, pumps, separators, and  
28 tanks. The term also includes tangible personal property that becomes  
29 an ingredient or component of the equipment and facilities, including  
30 repair and replacement parts.

31 (b) "Eligible person" means a person licensed to produce milk under  
32 chapter 15.36 RCW who has a certified dairy nutrient management plan by  
33 December 31, 2003, as required by chapter 90.64 RCW.

34 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.12 RCW  
35 to read as follows:

36 The provisions of this chapter do not apply with respect to the use  
37 by an eligible person of tangible personal property that becomes an  
38 ingredient or component of dairy nutrient management equipment and

1 facilities, as defined in section 14 of this act. The equipment and  
2 facilities must be used exclusively for activities necessary to  
3 implement a dairy nutrient management plan as required under chapter  
4 90.64 RCW. This exemption applies to the use of tangible personal  
5 property made after the dairy nutrient management plan is certified  
6 under chapter 90.64 RCW. The exemption certificate and recordkeeping  
7 requirements of section 14 of this act apply to this section.

8 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.08 RCW  
9 to read as follows:

10 (1) The tax levied by RCW 82.08.020 does not apply to sales to an  
11 eligible person establishing or operating an anaerobic digester or to  
12 services rendered in respect to installing, constructing, repairing,  
13 cleaning, altering, or improving an anaerobic digester, or to sales of  
14 tangible personal property that becomes an ingredient or component of  
15 the anaerobic digester. The anaerobic digester must be used primarily  
16 to treat dairy manure.

17 (2)(a) The department of revenue must provide an exemption  
18 certificate to an eligible person upon application by that person. The  
19 application must be in a form and manner prescribed by the department  
20 and must contain information regarding the location of the facility and  
21 other information as the department may require.

22 (b) The exemption is available only when the buyer provides the  
23 seller with an exemption certificate in a form and manner prescribed by  
24 the department. The seller must retain a copy of the certificate for  
25 the seller's files.

26 (3) The definitions in this subsection apply to this section and  
27 section 17 of this act unless the context clearly requires otherwise:

28 (a) "Anaerobic digester" means a facility that processes manure  
29 from cattle into biogas and dried manure using microorganisms in a  
30 decomposition process within a closed, oxygen-free container.

31 (b) "Eligible person" means any person establishing or operating an  
32 anaerobic digester to treat primarily dairy manure.

33 (c) "Primarily" means more than fifty percent measured by volume or  
34 weight.

35 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.12 RCW  
36 to read as follows:

1 The provisions of this chapter do not apply with respect to the use  
2 of anaerobic digesters or tangible personal property that becomes an  
3 ingredient or component of anaerobic digesters to treat primarily dairy  
4 manure by an eligible person establishing or operating an anaerobic  
5 digester, as defined in section 16 of this act.

6 NEW SECTION. Sec. 18. A new section is added to chapter 82.04 RCW  
7 to read as follows:

8 (1) A person who is eligible for and takes the exemption under  
9 section 16 or 17 of this act may take a credit against tax imposed by  
10 this chapter, subject to the limitations in this section.

11 (2) The credit under this section is equal to fifty percent of the  
12 amount of money expended for constructing facilities or acquiring  
13 tangible personal property for which an exemption was taken under  
14 section 16 or 17 of this act.

15 (3) No application is necessary for the credit under this section.  
16 A person taking the credit must keep records necessary for the  
17 department to verify eligibility under this section. Tax credit may  
18 not be claimed for expenditures that occurred before the effective date  
19 of this section.

20 (4) No applicant is eligible for tax credits under this section in  
21 excess of the amount of tax that would otherwise be due under this  
22 chapter. The credit must be claimed by the due date of the last tax  
23 return for the calendar year in which the payment is made. Any unused  
24 credit expires. Refunds shall not be given in place of credits.

25 NEW SECTION. Sec. 19. A new section is added to chapter 84.36 RCW  
26 to read as follows:

27 (1) All real and personal property meeting the definition of dairy  
28 nutrient management equipment and facilities that is owned by an  
29 eligible person, as these terms are defined in section 14 of this act,  
30 and exclusively used in the implementation of an approved dairy  
31 nutrient management plan, as required under chapter 90.64 RCW, is  
32 exempt from property taxation for not more than six assessment years  
33 after a claim for the exemption is approved in accordance with  
34 subsection (3) of this section. To qualify for this exemption, the  
35 property must be acquired and/or construction or installation be  
36 completed prior to December 31, 2003.

1 (2) All real and personal property meeting the definition of  
2 anaerobic digester that is owned by an eligible person, as these terms  
3 are defined in section 16 of this act and primarily used for the  
4 treatment of manure from dairy cattle is exempt from property taxation  
5 for the six assessment years after it is acquired, constructed, or  
6 installed.

7 (3) A claim for exemption under this section must be filed annually  
8 with the county assessor on or before the first day of November for  
9 exemption from taxes levied for collection in the following year. The  
10 claim must be submitted on forms prescribed by the department of  
11 revenue and developed in consultation with the department of  
12 agriculture and the conservation commission. The claimant must certify  
13 each year that the property for which exemption is sought meets the  
14 definition of dairy nutrient management equipment and facilities and is  
15 exclusively used in the implementation of an approved dairy nutrient  
16 management plan as required under chapter 90.64 RCW. Alternatively,  
17 the claimant must certify each year that the property for which  
18 exemption is sought meets the definition of anaerobic digester and is  
19 primarily used for the treatment of manure from dairy cattle.

20 (4) If at any time during the six-year exemption period the  
21 property no longer qualifies for the exemption as granted in subsection  
22 (1) or (2) of this section, the property loses its exempt status.

23 **PART VII: Farming Machinery and Equipment**

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

26 The tax levied by RCW 82.08.020 does not apply to sales of:

27 (1) Machinery and equipment used to conduct farming activity;  
28 (2) Parts for machinery and equipment used to conduct farming  
29 activity; and

30 (3) Labor and services for the repair of machinery, equipment, and  
31 parts used to conduct farming activity.

32 NEW SECTION. **Sec. 21.** A new section is added to chapter 82.12 RCW  
33 to read as follows:

34 The provisions of this chapter do not apply with respect to the use  
35 of:

36 (1) Machinery and equipment used to conduct farming activity;

1           (2) Parts for machinery and equipment used to conduct farming  
2 activity; and

3           (3) Labor and services for the repair of machinery, equipment, and  
4 parts used to conduct farming activity.

5           NEW SECTION.   **Sec. 22.** Part headings used in this act are not any  
6 part of the law.

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