
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1024

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Finance (originally sponsored by Representatives Van Luven, Foreman, B. Thomas, Lisk, Horn, Chandler, Casada, Dyer, Ballasiotes, Silver, Cooke, Brumsickle, Carlson, Sehlin, Sherstad, Dellwo, Benton, Skinner, Kremen, Hargrove, Costa, Delvin, Schoesler, Buck, Johnson, Thompson, Beeksma, Goldsmith, Radcliff, Hickel, Backlund, Crouse, Cairnes, Elliot, Reams, Pennington, Mastin, Mitchell, Conway, Quall, Ogden, Chappell, Regala, G. Fisher, Basich, Grant, Campbell, Smith, Robertson, Honeyford, Pelesky, Hankins, Koster, Lambert, D. Schmidt, Mulliken, Boldt, McMorris, Clements, Fuhrman, Sheldon, L. Thomas, Huff, Mielke, Talcott, McMahan, Stevens, Morris and Hymes)

Read first time 02/24/95.

1 AN ACT Relating to tax exemptions for manufacturing and processing;
2 amending RCW 82.04.190, 82.60.040, 82.60.045, 82.60.070, 82.61.010,
3 82.63.010, and 82.04.4452; reenacting and amending RCW 82.60.020;
4 adding a new section to chapter 82.08 RCW; adding a new section to
5 chapter 82.12 RCW; adding a new section to chapter 82.63 RCW; adding a
6 new section to chapter 82.14 RCW; creating new sections; repealing RCW
7 82.61.020, 82.61.040, 82.63.040, and 82.63.050; providing an effective
8 date; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** The legislature finds and declares that:
11 (1) The health, safety, and welfare of the people of the state of
12 Washington are heavily dependent upon the continued encouragement,
13 development, and expansion of opportunities for family wage employment
14 in our state's private sector;
15 (2) The state's private sector must be encouraged to commit to
16 continuous improvement of process, products, and services and to
17 deliver high-quality, high-value products through technological
18 innovations and high-performance work organizations;

1 (3) The state's opportunities for increased economic dealings with
2 other states and nations of the world are dependent on supporting and
3 attracting a diverse, stable, and competitive economic base of private
4 sector employers;

5 (4) The state's current policy of applying its sales and use taxes
6 to machinery, equipment, and installation labor used in manufacturing,
7 research and development, and other activities has placed our state's
8 private sector at a competitive disadvantage with other states and
9 serves as a significant disincentive to the continuous improvement of
10 products, technology, and modernization necessary for the preservation,
11 stabilization, and expansion of employment and to ensure a stable
12 economy; and

13 (5) It is vital to the continued development of economic
14 opportunity in this state, including the development of new businesses
15 and the expansion or modernization of existing businesses, that the
16 state of Washington provide tax incentives to entities making a
17 commitment to sites and operations in this state.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
19 to read as follows:

20 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
21 manufacturer or processor for hire of machinery and equipment used
22 directly in a manufacturing operation, or to sales of machinery and
23 equipment used directly in a potato packaging operation, or to sales of
24 or charges made for labor and services rendered in respect to
25 installing the machinery and equipment, but only when the purchaser
26 provides the seller with an exemption certificate in a form and manner
27 prescribed by the department by rule, and the purchaser provides the
28 department with a duplicate of the certificate or a summary of exempt
29 sales as the department may require. The seller shall retain a copy of
30 the certificate for the seller's files.

31 (2) For purposes of this section and section 3 of this act:

32 (a) "Machinery and equipment" means industrial fixtures, devices,
33 and support facilities. "Machinery and equipment" includes pollution
34 control equipment installed and used in a manufacturing operation to
35 prevent air pollution, water pollution, or contamination that might
36 otherwise result from the manufacturing operation.

37 (b) "Machinery and equipment" does not include:

38 (i) Hand tools;

1 (ii) Property with a useful life of less than one year;

2 (iii) Repair parts required to restore machinery and equipment to
3 normal working order;

4 (iv) Replacement parts that do not increase productivity, improve
5 efficiency, or extend the useful life of the machinery and equipment;
6 or

7 (v) Building fixtures that are not integral to the manufacturing
8 operation or potato packaging operation that are permanently affixed to
9 and become a physical part of a building, such as utility systems for
10 heating, ventilation, air conditioning, communications, plumbing, or
11 electrical.

12 (c) Machinery and equipment is "used directly" in a manufacturing
13 operation or potato packaging operation if the machinery and equipment:

14 (i) Acts upon or interacts with an item of tangible personal
15 property;

16 (ii) Conveys, transports, handles, or temporarily stores an item of
17 tangible personal property at the manufacturing or packaging site;

18 (iii) Controls, guides, measures, verifies, aligns, regulates, or
19 tests tangible personal property;

20 (iv) Provides physical support for or access to tangible personal
21 property;

22 (v) Produces steam or mechanical power for, or lubricates machinery
23 and equipment;

24 (vi) Produces another item of tangible personal property for use in
25 the manufacturing operation or potato packaging operation; or

26 (vii) Places tangible personal property in the container, package,
27 or wrapping in which the tangible personal property is normally sold or
28 transported.

29 (d) "Manufacturing operation" means the manufacturing of articles,
30 substances, or commodities for sale as tangible personal property. The
31 manufacturing operation begins at the point where the raw materials
32 enter the manufacturing site and ends at the point where the finished
33 product leaves the manufacturing site. The term does not include
34 research and development, cogeneration or the production of
35 electricity, or the preparation of food products on the premises of a
36 person selling food products at retail.

37 (e) "Potato packaging operation" means the packaging of fresh
38 potatoes for sale in their natural state. The packaging operation
39 begins at the point where the fresh potatoes enter the packaging site

1 and ends at the point where the packaged product leaves the packaging
2 site.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW
4 to read as follows:

5 The provisions of this chapter shall not apply in respect to the
6 use by a manufacturer or processor for hire of machinery and equipment
7 used directly in a manufacturing operation, or in respect to the use of
8 machinery and equipment used directly in a potato packaging operation,
9 but only when the user provides the department with:

10 (1) An exemption certificate in a form and manner prescribed by the
11 department within sixty days of the first use of the machinery and
12 equipment in this state; or

13 (2) An annual summary listing the machinery and equipment by
14 January 31 of the year following the calendar year in which the
15 machinery and equipment is first used in this state.

16 **Sec. 4.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to read
17 as follows:

18 "Consumer" means the following:

19 (1) Any person who purchases, acquires, owns, holds, or uses any
20 article of tangible personal property irrespective of the nature of the
21 person's business and including, among others, without limiting the
22 scope hereof, persons who install, repair, clean, alter, improve,
23 construct, or decorate real or personal property of or for consumers
24 other than for the purpose (a) of resale as tangible personal property
25 in the regular course of business or (b) of incorporating such property
26 as an ingredient or component of real or personal property when
27 installing, repairing, cleaning, altering, imprinting, improving,
28 constructing, or decorating such real or personal property of or for
29 consumers or (c) of consuming such property in producing for sale a new
30 article of tangible personal property or a new substance, of which such
31 property becomes an ingredient or component or as a chemical used in
32 processing, when the primary purpose of such chemical is to create a
33 chemical reaction directly through contact with an ingredient of a new
34 article being produced for sale or (d) purchases for the purpose of
35 consuming the property purchased in producing ferrosilicon which is
36 subsequently used in producing magnesium for sale, if the primary

1 purpose of such property is to create a chemical reaction directly
2 through contact with an ingredient of ferrosilicon;

3 (2) Any person engaged in any business activity taxable under RCW
4 82.04.290 and any person who purchases, acquires, or uses any telephone
5 service as defined in RCW 82.04.065, other than for resale in the
6 regular course of business;

7 (3) Any person engaged in the business of contracting for the
8 building, repairing or improving of any street, place, road, highway,
9 easement, right of way, mass public transportation terminal or parking
10 facility, bridge, tunnel, or trestle which is owned by a municipal
11 corporation or political subdivision of the state of Washington or by
12 the United States and which is used or to be used primarily for foot or
13 vehicular traffic including mass transportation vehicles of any kind as
14 defined in RCW 82.04.280, in respect to tangible personal property when
15 such person incorporates such property as an ingredient or component of
16 such publicly owned street, place, road, highway, easement, right of
17 way, mass public transportation terminal or parking facility, bridge,
18 tunnel, or trestle by installing, placing or spreading the property in
19 or upon the right of way of such street, place, road, highway,
20 easement, bridge, tunnel, or trestle or in or upon the site of such
21 mass public transportation terminal or parking facility;

22 (4) Any person who is an owner, lessee or has the right of
23 possession to or an easement in real property which is being
24 constructed, repaired, decorated, improved, or otherwise altered by a
25 person engaged in business, excluding only (a) municipal corporations
26 or political subdivisions of the state in respect to labor and services
27 rendered to their real property which is used or held for public road
28 purposes, and (b) the United States, instrumentalities thereof, and
29 county and city housing authorities created pursuant to chapter 35.82
30 RCW in respect to labor and services rendered to their real property.
31 Nothing contained in this or any other subsection of this definition
32 shall be construed to modify any other definition of "consumer";

33 (5) Any person who is an owner, lessee, or has the right of
34 possession to personal property which is being constructed, repaired,
35 improved, cleaned, imprinted, or otherwise altered by a person engaged
36 in business;

37 (6) Any person engaged in the business of constructing, repairing,
38 decorating, or improving new or existing buildings or other structures
39 under, upon, or above real property of or for the United States, any

1 instrumentality thereof, or a county or city housing authority created
2 pursuant to chapter 35.82 RCW, including the installing or attaching of
3 any article of tangible personal property therein or thereto, whether
4 or not such personal property becomes a part of the realty by virtue of
5 installation; also, any person engaged in the business of clearing land
6 and moving earth of or for the United States, any instrumentality
7 thereof, or a county or city housing authority created pursuant to
8 chapter 35.82 RCW. Any such person shall be a consumer within the
9 meaning of this subsection in respect to tangible personal property
10 incorporated into, installed in, or attached to such building or other
11 structure by such person; and

12 (7) Any person who is a lessor of machinery and equipment, the
13 rental of which is exempt from the tax imposed by RCW 82.08.020 under
14 section 2 of this act, with respect to the sale of or charge made for
15 tangible personal property consumed and for labor and services rendered
16 in respect to repairing the machinery and equipment.

17 Nothing contained in this or any other subsection of this
18 definition shall be construed to modify any other definition of
19 "consumer."

20 **Sec. 5.** RCW 82.60.020 and 1994 sp.s. c 7 s 704 and 1994 sp.s. c 1
21 s 1 are each reenacted and amended to read as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

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

26 (2) "Department" means the department of revenue.

27 (3) "Eligible area" means: (a) A county in which the average level
28 of unemployment for the three years before the year in which an
29 application is filed under this chapter exceeds the average state
30 unemployment for those years by twenty percent; (b) a metropolitan
31 statistical area, as defined by the office of federal statistical
32 policy and standards, United States department of commerce, in which
33 the average level of unemployment for the calendar year immediately
34 preceding the year in which an application is filed under this chapter
35 exceeds the average state unemployment for such calendar year by twenty
36 percent; (c) a designated community empowerment zone approved under RCW
37 43.63A.700 or a county containing such a community empowerment zone;
38 (d) a town with a population of less than twelve hundred persons in

1 those counties that are not covered under (a) of this subsection that
2 are timber impact areas as defined in RCW 43.31.601; ~~((or))~~ (e) a
3 county designated by the governor as an eligible area under RCW
4 82.60.047; or (f) a county that is contiguous to a county that
5 qualifies as an eligible area under (a) or (e) of this subsection.

6 (4)(a) "Eligible investment project" means:

7 (i) An investment project in an eligible area as defined in
8 subsection (3)(a), (b), (d), or (e) of this section; or

9 (ii) That portion of an investment project in an eligible area as
10 defined in subsection (3)(c) or (f) of this section which ~~((i))~~ is
11 directly utilized to create at least one new full-time qualified
12 employment position for each three hundred thousand dollars of
13 investment on which a deferral is requested in an application approved
14 before July 1, 1994, and for each seven hundred fifty thousand dollars
15 of investment on which a deferral is requested in an application
16 approved after June 30, 1994 ~~((; and~~

17 ~~((ii) Either initiates a new operation, or expands or diversifies a~~
18 ~~current operation by expanding, equipping, or renovating an existing~~
19 ~~facility with costs in excess of twenty five percent of the true and~~
20 ~~fair value of the facility prior to improvement)).~~

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

26 ~~((b))~~ (c) For purposes of (a) ~~((i))~~ (ii) of this
27 subsection ~~((;))~~:

28 (i) The department shall consider the entire investment project,
29 including any investment in machinery and equipment that otherwise
30 qualifies for exemption under section 2 or 3 of this act, for purposes
31 of determining the portion of the investment project that qualifies for
32 deferral as an eligible investment project; and

33 (ii) The number of new full-time qualified employment positions
34 created by an investment project shall be deemed to be reduced by the
35 number of full-time employment positions maintained by the recipient in
36 any other community in this state that are displaced as a result of the
37 investment project.

38 ~~((e))~~ (d) "Eligible investment project" does not include any
39 portion of an investment project undertaken by a light and power

1 business as defined in RCW 82.16.010(5), other than that portion of a
2 cogeneration project((s that are both an integral part of a
3 manufacturing facility and owned at least fifty percent by the
4 manufacturer)) that is used to generate power for consumption within
5 the manufacturing site of which the cogeneration project is an integral
6 part, or investment projects which have already received deferrals
7 under this chapter.

8 (5) "Investment project" means an investment in qualified buildings
9 or qualified machinery and equipment, including labor and services
10 rendered in the planning, installation, and construction of the
11 project.

12 (6) "Manufacturing" means all activities of a commercial or
13 industrial nature wherein labor or skill is applied, by hand or
14 machinery, to materials so that as a result thereof a new, different,
15 or useful substance or article of tangible personal property is
16 produced for sale or commercial or industrial use and shall include the
17 production or fabrication of specially made or custom made articles.
18 "Manufacturing" also includes computer programming, the production of
19 computer software, and other computer-related services, and the
20 activities performed by research and development laboratories and
21 commercial testing laboratories.

22 (7) "Person" has the meaning given in RCW 82.04.030.

23 (8) "Qualified buildings" means construction of new structures, and
24 expansion or renovation of existing structures for the purpose of
25 increasing floor space or production capacity used for manufacturing
26 and research and development activities, including plant offices and
27 warehouses or other facilities for the storage of raw material or
28 finished goods if such facilities are an essential or an integral part
29 of a factory, mill, plant, or laboratory used for manufacturing or
30 research and development. If a building is used partly for
31 manufacturing or research and development and partly for other
32 purposes, the applicable tax deferral shall be determined by
33 apportionment of the costs of construction under rules adopted by the
34 department.

35 (9) "Qualified employment position" means a permanent full-time
36 employee employed in the eligible investment project during the entire
37 tax year.

38 (10) "Qualified machinery and equipment" means all new industrial
39 and research fixtures, equipment, and support facilities that are an

1 integral and necessary part of a manufacturing or research and
2 development operation. "Qualified machinery and equipment" includes:
3 Computers; software; data processing equipment; laboratory equipment;
4 manufacturing components such as belts, pulleys, shafts, and moving
5 parts; molds, tools, and dies; operating structures; and all equipment
6 used to control or operate the machinery.

7 (11) "Recipient" means a person receiving a tax deferral under this
8 chapter.

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

15 **Sec. 6.** RCW 82.60.040 and 1994 sp.s. c 1 s 3 are each amended to
16 read as follows:

17 (1) The department shall issue a sales and use tax deferral
18 certificate for state and local sales and use taxes due under chapters
19 82.08, 82.12, and 82.14 RCW on each eligible investment project that:

20 (a) Is located in an eligible area (~~((other than a designated~~
21 ~~neighborhood reinvestment area approved under RCW 43.63A.700))~~ as
22 defined in RCW 82.60.020(3)(a), (b), (d), or (e);

23 (b) Is located in (~~(any county)~~) an eligible area as defined in RCW
24 82.60.020(3)(f) if seventy-five percent of the new qualified employment
25 positions are to be filled by residents of a contiguous county that
26 ((qualifies as)) is an eligible area as defined in RCW 82.60.020(3)(a)
27 or (e); or

28 (c) Is located in (~~(a designated neighborhood reinvestment area~~
29 ~~approved under RCW 43.63A.700, or in a county containing such a~~
30 ~~neighborhood reinvestment area,)) an eligible area as defined in RCW~~

31 82.60.020(3)(c) if seventy-five percent of the new qualified employment
32 positions are to be filled by residents of ((the neighborhood
33 reinvestment area)) a designated community empowerment zone approved
34 under RCW 43.63A.700 located within the county in which the eligible
35 investment project is located.

36 (2) The department shall keep a running total of all deferrals
37 granted under this chapter during each fiscal biennium.

1 **Sec. 7.** RCW 82.60.045 and 1994 sp.s. c 1 s 4 are each amended to
2 read as follows:

3 In addition to the other requirements of this chapter, a recipient
4 of a tax deferral under RCW 82.60.040(1) (b) or (c) shall meet the
5 following requirements:

6 (1) The recipient shall fill at least seventy-five percent of the
7 new qualified employment positions with residents of the contiguous
8 county or ((~~neighborhood reinvestment area~~)) community empowerment zone
9 by December 31 of the calendar year during which the department
10 certifies that the investment project is operationally completed, and
11 shall maintain the required percentage during each of the seven
12 succeeding calendar years.

13 (2) If the deferral is for expansion or diversification of an
14 existing facility, the recipient shall ensure that the percentage of
15 qualified employment positions filled by residents of the contiguous
16 county or ((~~neighborhood reinvestment area~~)) community empowerment zone
17 for periods prior to the application be maintained for seven calendar
18 years after the year during which the department certifies that the
19 investment project is operationally completed.

20 **Sec. 8.** RCW 82.60.070 and 1994 sp.s. c 1 s 5 are each amended to
21 read as follows:

22 (1) Each recipient of a deferral granted under this chapter prior
23 to July 1, 1994, shall submit a report to the department on December
24 31st of each year during the repayment period until the tax deferral is
25 repaid. Each recipient of a deferral granted under this chapter after
26 June 30, 1994, shall submit a report to the department on December 31st
27 of the year in which the investment project is certified by the
28 department as having been operationally completed, and on December 31st
29 of each of the seven succeeding calendar years. The report shall
30 contain information, as required by the department, from which the
31 department may determine whether the recipient is meeting the
32 requirements of this chapter. If the recipient fails to submit a
33 report or submits an inadequate report, the department may declare the
34 amount of deferred taxes outstanding to be immediately assessed and
35 payable.

36 (2) If, on the basis of a report under this section or other
37 information, the department finds that an investment project is not
38 eligible for tax deferral under this chapter for reasons other than

1 failure to create the required number of qualified employment
2 positions, the amount of deferred taxes outstanding for the project
3 shall be immediately due.

4 (3) If, on the basis of a report under this section or other
5 information, the department finds that an investment project for which
6 a deferral has been granted under this chapter prior to July 1, 1994,
7 has been operationally complete for three years and has failed to
8 create the required number of qualified employment positions, the
9 department shall assess interest, but not penalties, on the deferred
10 taxes for the project. The interest shall be assessed at the rate
11 provided for delinquent excise taxes, shall be assessed retroactively
12 to the date of deferral, and shall accrue until the deferred taxes are
13 repaid.

14 (4) If, on the basis of a report under this section or other
15 information, the department finds that an investment project for which
16 a deferral has been granted under this chapter after June 30, 1994, has
17 been operationally complete for three years and has failed to create
18 the required number of qualified employment positions, the amount of
19 taxes not eligible for deferral shall be immediately due. The
20 department shall assess interest at the rate provided for delinquent
21 excise taxes, but not penalties, retroactively to the date of deferral.

22 (5) If, on the basis of a report under this section or other
23 information, the department finds that an investment project qualifying
24 for deferral under RCW 82.60.040(1) (b) or (c) has failed to comply
25 with any requirement of RCW 82.60.045 for any calendar year for which
26 reports are required under subsection (1) of this section, twelve and
27 one-half percent of the amount of deferred taxes shall be immediately
28 due. The department shall assess interest at the rate provided for
29 delinquent excise taxes, but not penalties, retroactively to the date
30 of deferral.

31 (6) Notwithstanding any other subsection of this section, deferred
32 taxes on the following need not be repaid:

33 (a) Machinery and equipment, and sales of or charges made for labor
34 and services, which at the time of purchase would have qualified for
35 exemption under section 2 of this act; and

36 (b) Machinery and equipment which at the time of first use would
37 have qualified for exemption under section 3 of this act.

1 **Sec. 9.** RCW 82.61.010 and 1994 c 125 s 1 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

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

7 (2) "Person" has the meaning given in RCW 82.04.030.

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

9 (4) "Eligible investment project" means:

10 (a) Construction of new buildings and the acquisition of new
11 related machinery and equipment when the buildings, machinery, and
12 equipment are to be used for either manufacturing or research and
13 development activities, which construction is commenced prior to
14 December 31, (~~(1998)~~) 1995; or

15 (b) Acquisition prior to December 31, (~~(1998)~~) 1995, of new
16 machinery and equipment to be used for either manufacturing or research
17 and development if the machinery and equipment is housed in a new
18 leased structure. The lessor/owner of the structure is not eligible
19 for a deferral unless the underlying ownership of the buildings,
20 machinery, and equipment vests exclusively in the same person; or

21 (c) Acquisition of all new or used machinery, equipment, or other
22 personal property for use in the production or casting of aluminum at
23 an aluminum smelter or at facilities related to an aluminum smelter, if
24 the plant was in operation prior to 1975 and has ceased operations or
25 is in imminent danger of ceasing operations for economic reasons, as
26 determined by the department, and if the person applying for a deferral

27 (i) has consulted with any collective bargaining unit that represented
28 employees of the plant pursuant to a collective bargaining agreement
29 that was in effect either immediately prior to the time the plant
30 ceased operations or during the period when the plant was in imminent
31 danger of ceasing operations, on the proposed operation of the plant
32 and on the terms and conditions of employment for wage and salaried
33 employees and (ii) has obtained a written concurrence from the
34 bargaining unit on the decision to apply for a deferral under this
35 chapter; or

36 (d) Modernization projects involving construction, acquisition, or
37 upgrading of equipment or machinery, including services and labor,
38 which are commenced after May 19, 1987, and are intended to increase
39 the operating efficiency of existing plants which are either aluminum

1 smelters or aluminum rolling mills or of facilities related to such
2 plants, if the plant was in operation prior to 1975, and if the person
3 applying for a deferral (i) has consulted with any collective
4 bargaining unit that represents employees of the plant on the proposed
5 operation of the plant and the terms and conditions of employment for
6 wage and salaried employees and (ii) has obtained a written concurrence
7 from the bargaining unit on the decision to apply for a deferral under
8 this chapter.

9 (5) "Manufacturing" means all activities of a commercial or
10 industrial nature wherein labor or skill is applied, by hand or
11 machinery, to materials so that as a result thereof a new, different,
12 or useful substance or article of tangible personal property is
13 produced for sale or commercial or industrial use and includes the
14 production or fabrication of specially made or custom-made articles.

15 (6) "Research and development" means the development, refinement,
16 testing, marketing, and commercialization of a product, service, or
17 process before commercial sales have begun.

18 (7) "Buildings" means only those new structures used for either
19 manufacturing or research and development activities, including plant
20 offices and warehouses or other facilities for the storage of raw
21 materials or finished goods if such facilities are an essential or an
22 integral part of a factory, mill, plant, or laboratory used for
23 manufacturing or research and development purposes. If a building is
24 used partly for manufacturing or research and development and partly
25 for other purposes, the applicable tax deferral shall be determined by
26 apportionment of the costs of construction under rules adopted by the
27 department.

28 (8) "Machinery and equipment" means all industrial and research
29 fixtures, equipment, and support facilities that are an integral and
30 necessary part of a manufacturing or research and development
31 operation. "Qualified machinery and equipment" includes computers;
32 software; data processing equipment; laboratory equipment;
33 manufacturing components such as belts, pulleys, shafts, and moving
34 parts; molds, tools, and dies; operating structures; and all equipment
35 used to control or operate the machinery. For purposes of this
36 chapter, new machinery and equipment means either new to the taxing
37 jurisdiction of the state or new to the certificate holder. Used
38 machinery and equipment may be treated as new equipment and machinery
39 if the certificate holder either brings the machinery and equipment

1 into Washington or makes a retail purchase of the machinery and
2 equipment in Washington or elsewhere.

3 (9) "Qualified employment position" means a permanent full-time
4 employee employed in the eligible investment project during the entire
5 tax year.

6 (10) "Recipient" means a person receiving a tax deferral under this
7 chapter.

8 (11) "Certificate holder" means an applicant to whom a tax deferral
9 certificate has been issued.

10 (12) "Operationally complete" means constructed or improved to the
11 point of being functionally useable for the intended purpose.

12 (13) "Initiation of construction" means that date upon which on-
13 site construction commences.

14 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
15 each repealed:

16 (1) RCW 82.61.020 and 1987 c 497 s 2 & 1985 ex.s. c 2 s 2; and

17 (2) RCW 82.61.040 and 1993 sp.s. c 25 s 408, 1988 c 41 s 2, 1986 c
18 116 s 10, & 1985 ex.s. c 2 s 8.

19 **Sec. 11.** RCW 82.63.010 and 1994 sp.s. c 5 s 3 are each amended to
20 read as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

23 (1) (~~"Advanced computing" means technologies used in the designing~~
24 ~~and developing of computing hardware and software, including~~
25 ~~innovations in designing the full spectrum of hardware from hand-held~~
26 ~~calculators to super computers, and peripheral equipment.~~

27 (2) ~~"Advanced materials" means materials with engineered properties~~
28 ~~created through the development of specialized processing and synthesis~~
29 ~~technology, including ceramics, high value-added metals, electronic~~
30 ~~materials, composites, polymers, and biomaterials.~~

31 (3)) "Applicant" means a person applying for a tax deferral under
32 this chapter.

33 ((4) ~~"Biotechnology" means the application of technologies, such~~
34 ~~as recombinant DNA techniques, biochemistry, molecular and cellular~~
35 ~~biology, genetics and genetic engineering, cell fusion techniques, and~~
36 ~~new bioprocesses, using living organisms, or parts of organisms, to~~
37 ~~produce or modify products, to improve plants or animals, to develop~~

1 ~~microorganisms for specific uses, to identify targets for small~~
2 ~~molecule pharmaceutical development, or to transform biological systems~~
3 ~~into useful processes and products or to develop microorganisms for~~
4 ~~specific uses.~~

5 ~~(5))~~ (2) "Department" means the department of revenue.

6 ~~((6) "Electronic device technology" means technologies involving~~
7 ~~microelectronics; semiconductors; electronic equipment and~~
8 ~~instrumentation; radio frequency, microwave, and millimeter~~
9 ~~electronics; optical and optic-electrical devices; and data and digital~~
10 ~~communications and imaging devices.~~

11 ~~(7))~~ (3) "Eligible investment project" means ~~((that portion of))~~
12 ~~an investment project which either initiates a new operation, or~~
13 ~~expands or diversifies a current operation by expanding, renovating, or~~
14 ~~equipping an existing facility ((with costs in excess of twenty five~~
15 ~~percent of the true and fair value of the facility prior to~~
16 ~~improvement)).~~ The lessor or owner of the qualified building is not
17 eligible for a deferral unless the underlying ownership of the
18 buildings, machinery, and equipment vests exclusively in the same
19 person, or unless the lessor by written contract agrees to pass the
20 economic benefit of the deferral to the lessee in the form of reduced
21 rent payments.

22 ~~((8) "Environmental technology" means assessment and prevention of~~
23 ~~threats or damage to human health or the environment, environmental~~
24 ~~cleanup, and the development of alternative energy sources.~~

25 ~~(9))~~ (4) "Investment project" means an investment in qualified
26 buildings or qualified machinery and equipment, including labor and
27 services rendered in the planning, installation, and construction or
28 improvement of the project.

29 ~~((10))~~ (5) "Person" has the meaning given in RCW 82.04.030.

30 ~~((11))~~ (6) "Pilot scale manufacturing" means design,
31 construction, and testing of preproduction prototypes and models ~~((in~~
32 ~~the fields of biotechnology, advanced computing, electronic device~~
33 ~~technology, advanced materials, and environmental technology))~~ other
34 than for commercial sale. As used in this subsection, "commercial
35 sale" excludes sales of prototypes or sales for market testing if the
36 total gross receipts from such sales of the product, service, or
37 process do not exceed one million dollars.

38 ~~((12))~~ (7) "Qualified buildings" means construction of new
39 structures, and expansion or renovation of existing structures for the

1 purpose of increasing floor space or production capacity used for pilot
2 scale manufacturing or (~~qualified~~) research and development,
3 including plant offices and other facilities that are an essential or
4 an integral part of a structure used for pilot scale manufacturing or
5 (~~qualified~~) research and development. If a building is used partly
6 for pilot scale manufacturing or (~~qualified~~) research and
7 development, and partly for other purposes, the applicable tax deferral
8 shall be determined by apportionment of the costs of construction under
9 rules adopted by the department.

10 (~~(13)~~) (8) "Qualified machinery and equipment" means fixtures,
11 equipment, and support facilities that are an integral and necessary
12 part of a pilot scale manufacturing or (~~qualified~~) research and
13 development operation. "Qualified machinery and equipment" includes:
14 Computers; software; data processing equipment; laboratory equipment,
15 instrumentation, and other devices used in a process of experimentation
16 to develop a new or improved pilot model, plant process, product,
17 formula, invention, or similar property; manufacturing components such
18 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
19 vats, tanks, and fermenters; operating structures; and all other
20 equipment used to control, monitor, or operate the machinery. For
21 purposes of this chapter, qualified machinery and equipment must be
22 either new to the taxing jurisdiction of the state or new to the
23 certificate holder, except that used machinery and equipment may be
24 treated as qualified machinery and equipment if the certificate holder
25 either brings the machinery and equipment into Washington or makes a
26 retail purchase of the machinery and equipment in Washington or
27 elsewhere.

28 (~~(14)~~) "~~Qualified research and development~~" means ~~research and~~
29 ~~development performed within this state in the fields of advanced~~
30 ~~computing, advanced materials, biotechnology, electronic device~~
31 ~~technology, and environmental technology.~~

32 (~~(15)~~) (9) "Recipient" means a person receiving a tax deferral
33 under this chapter.

34 (~~(16)~~) (10) "Research and development" means activities performed
35 to discover technological information, and technical and nonroutine
36 activities concerned with translating technological information into
37 new or improved products, processes, techniques, formulas, inventions,
38 or software. The term includes exploration of a new use for an
39 existing drug, device, or biological product if the new use requires

1 separate licensing by the federal food and drug administration under
2 chapter 21, C.F.R., as amended. The term does not include adaptation
3 or duplication of existing products where the products are not
4 substantially improved by application of the technology, nor does the
5 term include surveys and studies, social science and humanities
6 research, market research or testing, quality control, sale promotion
7 and service, computer software developed for internal use, and research
8 in areas such as improved style, taste, and seasonal design.

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.63 RCW
10 to read as follows:

11 (1) Except as provided in subsection (2) of this section, taxes
12 deferred under this chapter need not be repaid.

13 (2) If, on the basis of a report under RCW 82.63.020 or other
14 information, the department finds that an investment project is used
15 for purposes other than research and development or pilot scale
16 manufacturing at any time during the calendar year in which the
17 investment project is certified by the department as having been
18 operationally completed, or at any time during any of the seven
19 succeeding calendar years, a portion of deferred taxes shall be
20 immediately due according to the following schedule:

21	Year in which use occurs	% of deferred taxes due
22	1	100%
23	2	87.5%
24	3	75%
25	4	62.5%
26	5	50%
27	6	37.5%
28	7	25%
29	8	12.5%

30 The department shall assess interest at the rate provided for
31 delinquent taxes, but not penalties, retroactively to the date of
32 deferral.

33 (3) Notwithstanding subsection (2) of this section, deferred taxes
34 on the following need not be repaid:

35 (a) Machinery and equipment, and sales of or charges made for labor
36 and services, which at the time of purchase would have qualified for
37 exemption under section 2 of this act; and

1 (b) Machinery and equipment which at the time of first use would
2 have qualified for exemption under section 3 of this act.

3 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 82.63.040 and 1994 sp.s. c 5 s 6; and

6 (2) RCW 82.63.050 and 1994 sp.s. c 5 s 7.

7 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.14 RCW
8 to read as follows:

9 (1) For purposes of this section "machinery and equipment
10 exemptions" means the sales and use tax exemptions for manufacturing
11 machinery and equipment provided in sections 2 and 3 of this act and
12 sales and use tax deferrals for manufacturing machinery and equipment
13 provided in chapters 82.60 and 82.63 RCW.

14 (2) A local government that imposes the sales and use tax under RCW
15 82.14.030 or 82.14.045 is eligible to receive payment from the state
16 treasurer, from amounts appropriated by the legislature for that
17 purpose, of an amount equal to the amount by which local sales and use
18 tax revenues lost by the local government as a result of machinery and
19 equipment exemptions exceeds five percent of local sales and use tax
20 collections by the local government during the period July 1, 1995,
21 through December 31, 1995, or any calendar year thereafter. If amounts
22 appropriated by the legislature are insufficient to pay the full amount
23 to which all local governments are eligible the payment to each
24 eligible local government shall be reduced in equal proportions.

25 (3) For purposes of subsection (2) of this section, local sales and
26 use tax collections by the local government shall be deemed to include
27 sales and use tax equalization funds distributed to the local
28 government pursuant to RCW 82.14.200 and 82.14.210. Fifty percent of
29 the sales and use tax equalization funds received by a local government
30 during calendar year 1995 shall be deemed to have been received during
31 the period July 1, 1995, through December 31, 1995, regardless of when
32 actually received.

33 (4) Upon application of a local government, the department shall
34 certify to the state treasurer the amount of payment for which the
35 local government is eligible and the state treasurer shall pay, from
36 amounts appropriated for that purpose, the amount to the treasurer of
37 the local government by March 1, 1996, for the period July 1, 1995,

1 through December 31, 1995, and by March 1 of each year thereafter for
2 the preceding calendar year.

3 (5) The department shall by rule establish application procedures
4 and methods for determining amounts for which local governments are
5 eligible under this section.

6 **Sec. 15.** RCW 82.04.4452 and 1994 sp.s. c 5 s 2 are each amended to
7 read as follows:

8 (1) In computing the tax imposed under this chapter, a credit is
9 allowed for each person whose research and development spending during
10 the year in which the credit is claimed exceeds 0.92 percent of the
11 person's taxable amount during the same calendar year.

12 (2) The credit is equal to the greater of the amount of qualified
13 research and development expenditures of a person or eighty percent of
14 amounts received by a person other than a public educational or
15 research institution in compensation for the conduct of qualified
16 research and development, multiplied by the rate of 0.515 percent in
17 the case of a nonprofit corporation or nonprofit association engaging
18 within this state in research and development, and 2.5 percent for
19 every other person.

20 (3) Any person entitled to the credit provided in subsection (2) of
21 this section as a result of qualified research and development
22 conducted under contract may assign all or any portion of the credit to
23 the person contracting for the performance of the qualified research
24 and development.

25 (4) The credit, including any credit assigned to a person under
26 subsection (3) of this section, shall be taken against taxes due for
27 the same calendar year in which the qualified research and development
28 expenditures are incurred. The credit, including any credit assigned
29 to a person under subsection (3) of this section, for each calendar
30 year shall not exceed the lesser of two million dollars or the amount
31 of tax otherwise due under this chapter for the calendar year.

32 (5) Any person taking the credit, including any credit assigned to
33 a person under subsection (3) of this section, whose research and
34 development spending during the calendar year in which the credit is
35 claimed fails to exceed 0.92 percent of the person's taxable amount
36 during the same calendar year shall be liable for payment of the
37 additional taxes represented by the amount of credit taken together
38 with interest, but not penalties. Interest shall be due at the rate

1 provided for delinquent excise taxes retroactively to the date the
2 credit was taken until the taxes are paid. Any credit assigned to a
3 person under subsection (3) of this section that is disallowed as a
4 result of this section may be taken by the person who performed the
5 qualified research and development subject to the limitations set forth
6 in subsection (4) of this section.

7 (6) Any person claiming the credit, and any person assigning a
8 credit as provided in subsection (3) of this section, shall file an
9 affidavit form prescribed by the department which shall include the
10 amount of the credit claimed, an estimate of the anticipated qualified
11 research and development expenditures during the calendar year for
12 which the credit is claimed, an estimate of the taxable amount during
13 the calendar year for which the credit is claimed, and such additional
14 information as the department may prescribe.

15 (7) A person claiming the credit shall agree to supply the
16 department with information necessary to measure the results of the tax
17 credit program for qualified research and development expenditures.

18 (8) The department shall use the information required under
19 subsection (7) of this section to perform three assessments on the tax
20 credit program authorized under this section. The assessments will
21 take place in 1997, 2000, and 2003. The department shall prepare
22 reports on each assessment and deliver their reports by September 1,
23 1997, September 1, 2000, and September 1, 2003. The assessments shall
24 measure the effect of the program on job creation, the number of jobs
25 created for Washington residents, company growth, the introduction of
26 new products, the diversification of the state's economy, growth in
27 research and development investment, the movement of firms or the
28 consolidation of firms' operations into the state, and such other
29 factors as the department selects.

30 (9) For the purpose of this section:

31 (a) "Advanced computing" means technologies used in the designing
32 and developing of computing hardware and software, including
33 innovations in designing the full spectrum of hardware from hand-held
34 calculators to super computers, and peripheral equipment.

35 (b) "Advanced materials" means materials with engineered properties
36 created through the development of specialized processing and synthesis
37 technology, including ceramics, high value-added metals, electronic
38 materials, composites, polymers, and biomaterials.

1 (c) "Biotechnology" means the application of technologies, such as
2 recombinant DNA techniques, biochemistry, molecular and cellular
3 biology, genetics and genetic engineering, cell fusion techniques, and
4 new bioprocesses, using living organisms, or parts of organisms, to
5 produce or modify products, to improve plants or animals, to develop
6 microorganisms for specific uses, to identify targets for small
7 molecule pharmaceutical development, or to transform biological systems
8 into useful processes and products or to develop microorganisms for
9 specific uses.

10 (d) "Electronic device technology" means technologies involving
11 microelectronics; semiconductors; electronic equipment and
12 instrumentation; radio frequency, microwave, and millimeter
13 electronics; optical and optic-electrical devices; and data and digital
14 communications and imaging devices.

15 (e) "Environmental technology" means assessment and prevention of
16 threats or damage to human health or the environment, environmental
17 cleanup, and the development of alternative energy sources.

18 (f) "Qualified research and development expenditures" means
19 operating expenses, including wages, compensation of a proprietor or a
20 partner in a partnership as determined under rules adopted by the
21 department, benefits, supplies, and computer expenses, directly
22 incurred in qualified research and development by a person claiming the
23 credit provided in this section. The term does not include amounts
24 paid to a person other than a public educational or research
25 institution to conduct qualified research and development. Nor does
26 the term include capital costs and overhead, such as expenses for land,
27 structures, or depreciable property.

28 ~~((b))~~ (g) "Qualified research and development" ~~((shall have the~~
29 same meaning as in RCW 82.63.010)) means research and development
30 performed within this state in the fields of advanced computing,
31 advanced materials, biotechnology, electronic device technology, and
32 environmental technology.

33 ~~((e))~~ (h) "Research and development spending" means qualified
34 research and development expenditures plus eighty percent of amounts
35 paid to a person other than a public educational or research
36 institution to conduct qualified research and development.

37 ~~((d))~~ (i) "Taxable amount" means the taxable amount subject to
38 the tax imposed in this chapter required to be reported on the person's
39 combined excise tax returns during the year in which the credit is

1 claimed, less any taxable amount for which a credit is allowed under
2 RCW 82.04.440.

3 (10) This section shall expire December 31, 2004.

4 NEW SECTION. **Sec. 16.** If specific funding for the purposes of
5 section 14 of this act, referencing that section by bill and section
6 number, is not provided by June 30, 1995, in the omnibus appropriations
7 act, section 14 of this act is null and void. The amount appropriated
8 for the purposes of section 14 of this act for the biennium ending June
9 30, 1997, shall not exceed two million dollars.

10 NEW SECTION. **Sec. 17.** The department of revenue shall perform an
11 assessment of the results of the tax exemption authorized under this
12 act and deliver a report to the governor and the legislature by
13 September 1, 1998. The assessment shall measure the effect of the
14 exemption on the creation of jobs, diversification of the state's
15 economy, and other factors the department may select.

16 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and shall take
19 effect July 1, 1995.

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