
SUBSTITUTE HOUSE BILL 1024

State of Washington

54th Legislature

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By House Committee on Trade & Economic Development (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 01/16/95.

1 AN ACT Relating to tax exemptions for manufacturing and processing;
2 amending RCW 82.04.190, 82.60.070, 82.61.010, and 82.63.010; reenacting
3 and amending RCW 82.60.020; adding a new section to chapter 82.08 RCW;
4 adding a new section to chapter 82.12 RCW; adding a new section to
5 chapter 82.63 RCW; creating new sections; repealing RCW 82.61.020,
6 82.61.030, 82.61.040, 82.63.040, and 82.63.050; providing an effective
7 date; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

10 (1) The health, safety, and welfare of the people of the state of
11 Washington are heavily dependent upon the continued encouragement,
12 development, and expansion of opportunities for family wage employment
13 in our state's private sector;

14 (2) The state's private sector must be encouraged to commit to
15 continuous improvement of process, products, and services and to
16 deliver high-quality, high-value products through technological
17 innovations and high-performance work organizations;

18 (3) The state's opportunities for increased economic dealings with
19 other states and nations of the world are dependent on supporting and

1 attracting a diverse, stable, and competitive economic base of private
2 sector employers;

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

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

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

18 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
19 manufacturer or processor for hire of machinery or equipment used
20 directly in a manufacturing operation, or to sales of or charges made
21 for labor and services rendered in respect to installing the machinery
22 or equipment, but only when the purchaser provides an exemption
23 certificate in a form and manner prescribed by the department by rule.

24 (2) The exemption under this section shall only apply to the
25 state's portion of retail sales tax that is levied in RCW 82.08.020.

26 (3) "Machinery and equipment" means industrial fixtures, devices,
27 support facilities, and pollution control equipment installed and used
28 in a manufacturing facility to prevent air or water pollution or
29 contamination that might otherwise result from the operation of the
30 facility.

31 (4) "Machinery and equipment" does not include:

32 (a) Hand tools;

33 (b) Property with a useful life of less than one year;

34 (c) Repair parts required to restore machinery and equipment to
35 normal working order;

36 (d) Replacement parts that do not improve efficiency or extend the
37 useful life of the machinery and equipment; or

1 (e) Building fixtures that are not integral to the manufacturing
2 operation that are permanently affixed to and become a physical part of
3 a building, such as utility systems for heating, ventilation, air
4 conditioning, communications, plumbing, or electrical.

5 (5) Machinery and equipment is "used directly" in a manufacturing
6 process if the machinery or equipment:

7 (a) Acts upon or interacts with an item of tangible personal
8 property;

9 (b) Conveys, transports, handles, or temporarily stores an item of
10 tangible personal property at the manufacturing facility;

11 (c) Controls, guides, measures, verifies, aligns, regulates, or
12 tests tangible personal property;

13 (d) Provides physical support or access to tangible personal
14 property;

15 (e) Produces steam or mechanical power for, or lubricates machinery
16 and equipment;

17 (f) Produces another item of tangible personal property for use in
18 the manufacturing operation; or

19 (g) Places the property in the container, package, or wrapping in
20 which the property is normally sold or transported.

21 (6) "Manufacturing operation" means the manufacturing of articles,
22 substances, or commodities for sale as tangible personal property. The
23 manufacturing operation begins when the raw materials enter the
24 manufacturing facility and ends when the finished product leaves the
25 manufacturing facility. The term does not include research and
26 development, cogeneration or the production of electricity, or the
27 preparation of food products on the premises of a person selling food
28 products at retail.

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

31 (1) The provisions of this chapter shall not apply in respect to
32 the use by a manufacturer or processor for hire of machinery or
33 equipment used directly in a manufacturing operation.

34 (2) The exemption under this section shall only apply to the
35 state's portion of use tax that is imposed in RCW 82.12.020.

36 (3) "Machinery and equipment" means industrial fixtures, devices,
37 support facilities, and pollution control equipment installed and used
38 in a manufacturing facility to prevent air or water pollution or

1 contamination that might otherwise result from the operation of the
2 facility.

3 (4) "Machinery and equipment" does not include:

4 (a) Hand tools;

5 (b) Property with a useful life of less than one year;

6 (c) Repair parts required to restore machinery and equipment to
7 normal working order;

8 (d) Replacement parts that do not improve efficiency or extend the
9 useful life of the machinery and equipment; or

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

14 (5) Machinery and equipment is "used directly" in a manufacturing
15 process if the machinery or equipment:

16 (a) Acts upon or interacts with an item of tangible personal
17 property;

18 (b) Conveys, transports, handles, or temporarily stores an item of
19 tangible personal property at the manufacturing facility;

20 (c) Controls, guides, measures, verifies, aligns, regulates, or
21 tests tangible personal property;

22 (d) Provides physical support or access to tangible personal
23 property;

24 (e) Produces steam or mechanical power for, or lubricates machinery
25 and equipment;

26 (f) Produces another item of tangible personal property for use in
27 the manufacturing operation; or

28 (g) Places the property in the container, package, or wrapping in
29 which the property is normally sold or transported.

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

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

3 "Consumer" means the following:

4 (1) Any person who purchases, acquires, owns, holds, or uses any
5 article of tangible personal property irrespective of the nature of the
6 person's business and including, among others, without limiting the
7 scope hereof, persons who install, repair, clean, alter, improve,
8 construct, or decorate real or personal property of or for consumers
9 other than for the purpose (a) of resale as tangible personal property
10 in the regular course of business or (b) of incorporating such property
11 as an ingredient or component of real or personal property when
12 installing, repairing, cleaning, altering, imprinting, improving,
13 constructing, or decorating such real or personal property of or for
14 consumers or (c) of consuming such property in producing for sale a new
15 article of tangible personal property or a new substance, of which such
16 property becomes an ingredient or component or as a chemical used in
17 processing, when the primary purpose of such chemical is to create a
18 chemical reaction directly through contact with an ingredient of a new
19 article being produced for sale or (d) purchases for the purpose of
20 consuming the property purchased in producing ferrosilicon which is
21 subsequently used in producing magnesium for sale, if the primary
22 purpose of such property is to create a chemical reaction directly
23 through contact with an ingredient of ferrosilicon;

24 (2) Any person engaged in any business activity taxable under RCW
25 82.04.290 and any person who purchases, acquires, or uses any telephone
26 service as defined in RCW 82.04.065, other than for resale in the
27 regular course of business;

28 (3) Any person engaged in the business of contracting for the
29 building, repairing or improving of any street, place, road, highway,
30 easement, right of way, mass public transportation terminal or parking
31 facility, bridge, tunnel, or trestle which is owned by a municipal
32 corporation or political subdivision of the state of Washington or by
33 the United States and which is used or to be used primarily for foot or
34 vehicular traffic including mass transportation vehicles of any kind as
35 defined in RCW 82.04.280, in respect to tangible personal property when
36 such person incorporates such property as an ingredient or component of
37 such publicly owned street, place, road, highway, easement, right of
38 way, mass public transportation terminal or parking facility, bridge,
39 tunnel, or trestle by installing, placing or spreading the property in

1 or upon the right of way of such street, place, road, highway,
2 easement, bridge, tunnel, or trestle or in or upon the site of such
3 mass public transportation terminal or parking facility;

4 (4) Any person who is an owner, lessee or has the right of
5 possession to or an easement in real property which is being
6 constructed, repaired, decorated, improved, or otherwise altered by a
7 person engaged in business, excluding only (a) municipal corporations
8 or political subdivisions of the state in respect to labor and services
9 rendered to their real property which is used or held for public road
10 purposes, and (b) the United States, instrumentalities thereof, and
11 county and city housing authorities created pursuant to chapter 35.82
12 RCW in respect to labor and services rendered to their real property.
13 Nothing contained in this or any other subsection of this definition
14 shall be construed to modify any other definition of "consumer";

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

19 (6) Any person engaged in the business of constructing, repairing,
20 decorating, or improving new or existing buildings or other structures
21 under, upon, or above real property of or for the United States, any
22 instrumentality thereof, or a county or city housing authority created
23 pursuant to chapter 35.82 RCW, including the installing or attaching of
24 any article of tangible personal property therein or thereto, whether
25 or not such personal property becomes a part of the realty by virtue of
26 installation; also, any person engaged in the business of clearing land
27 and moving earth of or for the United States, any instrumentality
28 thereof, or a county or city housing authority created pursuant to
29 chapter 35.82 RCW. Any such person shall be a consumer within the
30 meaning of this subsection in respect to tangible personal property
31 incorporated into, installed in, or attached to such building or other
32 structure by such person; and

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

1 Nothing contained in this or any other subsection of this
2 definition shall be construed to modify any other definition of
3 "consumer."

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

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

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

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

11 (3) "Eligible area" means: (a) A county in which the average level
12 of unemployment for the three years before the year in which an
13 application is filed under this chapter exceeds the average state
14 unemployment for those years by twenty percent; (b) a metropolitan
15 statistical area, as defined by the office of federal statistical
16 policy and standards, United States department of commerce, in which
17 the average level of unemployment for the calendar year immediately
18 preceding the year in which an application is filed under this chapter
19 exceeds the average state unemployment for such calendar year by twenty
20 percent; (c) a designated community empowerment zone approved under RCW
21 43.63A.700; (d) a town with a population of less than twelve hundred
22 persons in those counties that are not covered under (a) of this
23 subsection that are timber impact areas as defined in RCW 43.31.601; or
24 (e) a county designated by the governor as an eligible area under RCW
25 82.60.047.

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

27 (i) An investment in qualified buildings or qualified machinery and
28 equipment, including labor and services rendered in the planning,
29 installation, or construction of the project; or

30 (ii) That portion of an investment in a qualified cogeneration
31 project which

32 (i)) is directly ((utilized)) used to create at least one new
33 full-time qualified employment position for each ((three hundred
34 thousand dollars of investment on which a deferral is requested in an
35 application approved before July 1, 1994, and for each)) seven hundred
36 fifty thousand dollars of investment on which a deferral is requested
37 ((in an application approved after June 30, 1994; and

1 ~~(ii) Either initiates a new operation, or expands or diversifies a~~
2 ~~current operation by expanding, equipping, or renovating an existing~~
3 ~~facility with costs in excess of twenty five percent of the true and~~
4 ~~fair value of the facility prior to improvement)), including labor and
5 services rendered in the planning, installation, and construction of
6 the project.~~

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

12 ~~((b))~~ For purposes of ~~(a)~~~~((i))~~ of this subsection, the number
13 of new full-time qualified employment positions created by an
14 investment project shall be deemed to be reduced by the number of full-
15 time employment positions maintained by the recipient in any other
16 community in this state that are displaced as a result of the
17 investment project.

18 (c) "Eligible investment project" does not include any portion of
19 an investment project undertaken by a light and power business as
20 defined in RCW 82.16.010(5), other than a qualified cogeneration
21 ~~project((s that are both an integral part of a manufacturing facility~~
22 ~~and owned at least fifty percent by the manufacturer)), or investment~~
23 projects which have already received deferrals under this chapter.

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

28 ~~(6))~~ "Manufacturing" means all activities of a commercial or
29 industrial nature wherein labor or skill is applied, by hand or
30 machinery, to materials so that as a result thereof a new, different,
31 or useful substance or article of tangible personal property is
32 produced for sale or commercial or industrial use and shall include the
33 production or fabrication of specially made or custom made articles.
34 "Manufacturing" also includes computer programming, the production of
35 computer software, and other computer-related services, and the
36 activities performed by research and development laboratories and
37 commercial testing laboratories.

38 ~~((7))~~ (6) "Person" has the meaning given in RCW 82.04.030.

1 (~~(8)~~) (7) "Qualified buildings" means construction of new
2 structures, and expansion or renovation of existing structures for the
3 purpose of increasing floor space or production capacity used for
4 manufacturing and research and development activities, including plant
5 offices and warehouses or other facilities for the storage of raw
6 material or finished goods if such facilities are an essential or an
7 integral part of a factory, mill, plant, or laboratory used for
8 manufacturing or research and development. If a building is used
9 partly for manufacturing or research and development and partly for
10 other purposes, the applicable tax deferral shall be determined by
11 apportionment of the costs of construction under rules adopted by the
12 department.

13 (8) "Qualified cogeneration project" means a cogeneration project
14 that is both an integral part of a manufacturing facility and owned at
15 least fifty percent by the manufacturer.

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

19 (10) "Qualified machinery and equipment" means all new industrial
20 and research fixtures, equipment, and support facilities that are an
21 integral and necessary part of a manufacturing or research and
22 development operation. "Qualified machinery and equipment" includes:
23 Computers; software; data processing equipment; laboratory equipment;
24 manufacturing components such as belts, pulleys, shafts, and moving
25 parts; molds, tools, and dies; operating structures; and all equipment
26 used to control or operate the machinery.

27 (11) "Recipient" means a person receiving a tax deferral under this
28 chapter.

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

35 **Sec. 6.** RCW 82.60.070 and 1994 sp.s. c 1 s 5 are each amended to
36 read as follows:

37 (1) Each recipient of a deferral granted under this chapter prior
38 to July 1, 1994, shall submit a report to the department on December

1 31st of each year during the repayment period until the tax deferral is
2 repaid. Each recipient of a deferral granted under this chapter after
3 June 30, 1994, shall submit a report to the department on December 31st
4 of the year in which the investment project is certified by the
5 department as having been operationally completed, and on December 31st
6 of each of the seven succeeding calendar years. The report shall
7 contain information, as required by the department, from which the
8 department may determine whether the recipient is meeting the
9 requirements of this chapter. If the recipient fails to submit a
10 report or submits an inadequate report, the department may declare the
11 amount of deferred taxes outstanding to be immediately assessed and
12 payable.

13 (2) If, on the basis of a report under this section or other
14 information, the department finds that an investment project is not
15 eligible for tax deferral under this chapter for reasons other than
16 failure to create the required number of qualified employment
17 positions, the amount of deferred taxes outstanding for the project
18 shall be immediately due.

19 (3) If, on the basis of a report under this section or other
20 information, the department finds that an investment project for which
21 a deferral has been granted under this chapter prior to July 1, 1994,
22 has been operationally complete for three years and has failed to
23 create the required number of qualified employment positions, the
24 department shall assess interest, but not penalties, on the deferred
25 taxes for the project. The interest shall be assessed at the rate
26 provided for delinquent excise taxes, shall be assessed retroactively
27 to the date of deferral, and shall accrue until the deferred taxes are
28 repaid.

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

37 (5) If, on the basis of a report under this section or other
38 information, the department finds that an investment project qualifying
39 for deferral under RCW 82.60.040(1) (b) or (c) has failed to comply

1 with any requirement of RCW 82.60.045 for any calendar year for which
2 reports are required under subsection (1) of this section, twelve and
3 one-half percent of the amount of deferred taxes shall be immediately
4 due. The department shall assess interest at the rate provided for
5 delinquent excise taxes, but not penalties, retroactively to the date
6 of deferral.

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

9 (a) Tangible personal property, and sales of or charges made for
10 labor and services, which at the time of purchase would have qualified
11 for exemption under section 2 of this act; and

12 (b) Tangible personal property which at the time of first use would
13 have qualified for exemption under section 3 of this act.

14 **Sec. 7.** RCW 82.61.010 and 1994 c 125 s 1 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

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

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

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

22 (4) "Eligible investment project" means:

23 (a) Construction of new buildings and the acquisition of new
24 related machinery and equipment when the buildings, machinery, and
25 equipment are to be used for either manufacturing or research and
26 development activities, which construction is commenced prior to
27 December 31, (~~(1998)~~) 1995; or

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

34 (c) Acquisition of all new or used machinery, equipment, or other
35 personal property for use in the production or casting of aluminum at
36 an aluminum smelter or at facilities related to an aluminum smelter, if
37 the plant was in operation prior to 1975 and has ceased operations or
38 is in imminent danger of ceasing operations for economic reasons, as

1 determined by the department, and if the person applying for a deferral
2 (i) has consulted with any collective bargaining unit that represented
3 employees of the plant pursuant to a collective bargaining agreement
4 that was in effect either immediately prior to the time the plant
5 ceased operations or during the period when the plant was in imminent
6 danger of ceasing operations, on the proposed operation of the plant
7 and on the terms and conditions of employment for wage and salaried
8 employees and (ii) has obtained a written concurrence from the
9 bargaining unit on the decision to apply for a deferral under this
10 chapter; or

11 (d) Modernization projects involving construction, acquisition, or
12 upgrading of equipment or machinery, including services and labor,
13 which are commenced after May 19, 1987, and are intended to increase
14 the operating efficiency of existing plants which are either aluminum
15 smelters or aluminum rolling mills or of facilities related to such
16 plants, if the plant was in operation prior to 1975, and if the person
17 applying for a deferral (i) has consulted with any collective
18 bargaining unit that represents employees of the plant on the proposed
19 operation of the plant and the terms and conditions of employment for
20 wage and salaried employees and (ii) has obtained a written concurrence
21 from the bargaining unit on the decision to apply for a deferral under
22 this chapter.

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

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

32 (7) "Buildings" means only those new structures used for either
33 manufacturing or research and development activities, including plant
34 offices and warehouses or other facilities for the storage of raw
35 materials or finished goods if such facilities are an essential or an
36 integral part of a factory, mill, plant, or laboratory used for
37 manufacturing or research and development purposes. If a building is
38 used partly for manufacturing or research and development and partly
39 for other purposes, the applicable tax deferral shall be determined by

1 apportionment of the costs of construction under rules adopted by the
2 department.

3 (8) "Machinery and equipment" means all industrial and research
4 fixtures, equipment, and support facilities that are an integral and
5 necessary part of a manufacturing or research and development
6 operation. "Qualified machinery and equipment" includes computers;
7 software; data processing equipment; laboratory equipment;
8 manufacturing components such as belts, pulleys, shafts, and moving
9 parts; molds, tools, and dies; operating structures; and all equipment
10 used to control or operate the machinery. For purposes of this
11 chapter, new machinery and equipment means either new to the taxing
12 jurisdiction of the state or new to the certificate holder. Used
13 machinery and equipment may be treated as new equipment and machinery
14 if the certificate holder either brings the machinery and equipment
15 into Washington or makes a retail purchase of the machinery and
16 equipment in Washington or elsewhere.

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

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

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

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

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

28 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
29 repealed:

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

31 (2) RCW 82.61.030 and 1987 c 497 s 3 & 1985 ex.s. c 2 s 3; and

32 (3) RCW 82.61.040 and 1993 sp.s. c 25 s 408, 1988 c 41 s 2, 1986 c
33 116 s 10, & 1985 ex.s. c 2 s 8.

34 **Sec. 9.** RCW 82.63.010 and 1994 sp.s. c 5 s 3 are each amended to
35 read as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

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

5 (2) "Advanced materials" means materials with engineered properties
6 created through the development of specialized processing and synthesis
7 technology, including ceramics, high value-added metals, electronic
8 materials, composites, polymers, and biomaterials.

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

11 (4) "Biotechnology" means the application of technologies, such as
12 recombinant DNA techniques, biochemistry, molecular and cellular
13 biology, genetics and genetic engineering, cell fusion techniques, and
14 new bioprocesses, using living organisms, or parts of organisms, to
15 produce or modify products, to improve plants or animals, to develop
16 microorganisms for specific uses, to identify targets for small
17 molecule pharmaceutical development, or to transform biological systems
18 into useful processes and products or to develop microorganisms for
19 specific uses.

20 (5) "Department" means the department of revenue.

21 (6) "Electronic device technology" means technologies involving
22 microelectronics; semiconductors; electronic equipment and
23 instrumentation; radio frequency, microwave, and millimeter
24 electronics; optical and optic-electrical devices; and data and digital
25 communications and imaging devices.

26 (7) "Eligible investment project" means ~~((that portion of))~~ an
27 investment project which either initiates a new operation, or expands
28 or diversifies a current operation by expanding, renovating, or
29 equipping an existing facility ~~((with costs in excess of twenty five
30 percent of the true and fair value of the facility prior to
31 improvement))~~. The lessor or owner of the qualified building is not
32 eligible for a deferral unless the underlying ownership of the
33 buildings, machinery, and equipment vests exclusively in the same
34 person, or unless the lessor by written contract agrees to pass the
35 economic benefit of the deferral to the lessee in the form of reduced
36 rent payments.

37 (8) "Environmental technology" means assessment and prevention of
38 threats or damage to human health or the environment, environmental
39 cleanup, and the development of alternative energy sources.

1 (9) "Investment project" means an investment in qualified buildings
2 or qualified machinery and equipment, including labor and services
3 rendered in the planning, installation, and construction or improvement
4 of the project.

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

6 (11) "Pilot scale manufacturing" means design, construction, and
7 testing of preproduction prototypes and models in the fields of
8 biotechnology, advanced computing, electronic device technology,
9 advanced materials, and environmental technology other than for
10 commercial sale. As used in this subsection, "commercial sale"
11 excludes sales of prototypes or sales for market testing if the total
12 gross receipts from such sales of the product, service, or process do
13 not exceed one million dollars.

14 (12) "Qualified buildings" means construction of new structures,
15 and expansion or renovation of existing structures for the purpose of
16 increasing floor space or production capacity used for pilot scale
17 manufacturing or qualified research and development, including plant
18 offices and other facilities that are an essential or an integral part
19 of a structure used for pilot scale manufacturing or qualified research
20 and development. If a building is used partly for pilot scale
21 manufacturing or qualified research and development, and partly for
22 other purposes, the applicable tax deferral shall be determined by
23 apportionment of the costs of construction under rules adopted by the
24 department.

25 (13) "Qualified machinery and equipment" means fixtures, equipment,
26 and support facilities that are an integral and necessary part of a
27 pilot scale manufacturing or qualified research and development
28 operation. "Qualified machinery and equipment" includes: Computers;
29 software; data processing equipment; laboratory equipment,
30 instrumentation, and other devices used in a process of experimentation
31 to develop a new or improved pilot model, plant process, product,
32 formula, invention, or similar property; manufacturing components such
33 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
34 vats, tanks, and fermenters; operating structures; and all other
35 equipment used to control, monitor, or operate the machinery. For
36 purposes of this chapter, qualified machinery and equipment must be
37 either new to the taxing jurisdiction of the state or new to the
38 certificate holder, except that used machinery and equipment may be
39 treated as qualified machinery and equipment if the certificate holder

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

4 (14) "Qualified research and development" means research and
5 development performed within this state in the fields of advanced
6 computing, advanced materials, biotechnology, electronic device
7 technology, and environmental technology.

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

10 (16) "Research and development" means activities performed to
11 discover technological information, and technical and nonroutine
12 activities concerned with translating technological information into
13 new or improved products, processes, techniques, formulas, inventions,
14 or software. The term includes exploration of a new use for an
15 existing drug, device, or biological product if the new use requires
16 separate licensing by the federal food and drug administration under
17 chapter 21, C.F.R., as amended. The term does not include adaptation
18 or duplication of existing products where the products are not
19 substantially improved by application of the technology, nor does the
20 term include surveys and studies, social science and humanities
21 research, market research or testing, quality control, sale promotion
22 and service, computer software developed for internal use, and research
23 in areas such as improved style, taste, and seasonal design.

24 NEW SECTION. Sec. 10. A new section is added to chapter 82.63 RCW
25 to read as follows:

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

28 (2) If, on the basis of a report under RCW 82.63.020 or other
29 information, the department finds that an investment project is used
30 for purposes other than qualified research and development or pilot
31 scale manufacturing at any time during the calendar year in which the
32 investment project is certified by the department as having been
33 operationally completed, or at any time during any of the seven
34 succeeding calendar years, a portion of deferred taxes shall be
35 immediately due according to the following schedule:

36	Year in which use occurs	% of deferred taxes due
37	1	100%

1	2	87.5%
2	3	75%
3	4	62.5%
4	5	50%
5	6	37.5%
6	7	25%
7	8	12.5%

8 The department shall assess interest at the rate provided for
9 delinquent taxes, but not penalties, retroactively to the date of
10 deferral.

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

13 (a) Tangible personal property, and sales of or charges made for
14 labor and services, which at the time of purchase would have qualified
15 for exemption under section 2 of this act; and

16 (b) Tangible personal property which at the time of first use would
17 have qualified for exemption under section 3 of this act.

18 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
19 each repealed:

- 20 (1) RCW 82.63.040 and 1994 sp.s. c 5 s 6; and
- 21 (2) RCW 82.63.050 and 1994 sp.s. c 5 s 7.

22 NEW SECTION. **Sec. 12.** The department of revenue may make and
23 publish rules and regulations necessary to implement this act.

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

30 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect July 1, 1995.

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