

2 **ESHB 2260** - S COMM AMD

3 By Committee on Agriculture & Rural Economic Development

4 NOT ADOPTED 4/15/99

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that while
8 Washington's economy is currently prospering, economic growth continues
9 to be uneven, particularly as between metropolitan and rural areas.
10 This has created in effect two Washingtons. One afflicted by
11 inadequate infrastructure to support and attract investment, another
12 suffering from congestion and soaring housing prices. In order to
13 address these problems, the legislature intends to use resources
14 strategically to build on our state's strengths while addressing
15 threats to our prosperity.

16 **PART I**

17 **LOCAL OPTION SALES AND USE TAX**

18 **Sec. 101.** RCW 82.14.370 and 1998 c 55 s 6 are each amended to read
19 as follows:

20 (1) The legislative authority of a (~~distressed~~) rural county may
21 impose a sales and use tax in accordance with the terms of this
22 chapter. The tax is in addition to other taxes authorized by law and
23 shall be collected from those persons who are taxable by the state
24 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
25 event within the county. The rate of tax shall not exceed (~~0.04~~)
26 0.08 percent of the selling price in the case of a sales tax or value
27 of the article used in the case of a use tax, except that for rural
28 counties with population densities between sixty and one hundred
29 persons per square mile, the rate shall not exceed 0.04 percent before
30 January 1, 2000.

31 (2) The tax imposed under subsection (1) of this section shall be
32 deducted from the amount of tax otherwise required to be collected or
33 paid over to the department of revenue under chapter 82.08 or 82.12

1 RCW. The department of revenue shall perform the collection of such
2 taxes on behalf of the county at no cost to the county.

3 (3) Moneys collected under this section shall only be used for the
4 purpose of financing public facilities in rural counties. The public
5 facility must be listed as an item in the officially adopted county
6 overall economic development plan, or the economic development section
7 of the county's comprehensive plan, or the comprehensive plan of a city
8 or town located within the county for those counties planning under RCW
9 36.70A.040. For those counties that do not have an adopted overall
10 economic development plan and do not plan under the growth management
11 act, the public facility must be listed in the county's capital
12 facilities plan or the capital facilities plan of a city or town
13 located within the county. In implementing this section, the county
14 shall consult with cities, towns, and port districts located within the
15 county. For the purposes of this section, "public facilities" means
16 bridges, roads, and domestic and industrial water, sanitary sewer,
17 storm sewer, railroad, electricity, natural gas, buildings or
18 structures, telecommunications, transportation, or commercial
19 infrastructure, and port facilities in the state of Washington.

20 (4) No tax may be collected under this section before July 1, 1998.
21 No tax may be collected under this section by a county more than
22 twenty-five years after the date that a tax is first imposed under this
23 section.

24 (5) For purposes of this section, "~~((distressed))~~ rural county"
25 means ~~((a county in which the average level of unemployment for the~~
26 ~~three years before the year in which a tax is first imposed under this~~
27 ~~section exceeds the average state unemployment for those years by~~
28 ~~twenty percent))~~ an eligible area as defined in RCW 82.60.020.

29 **PART II**

30 **DISTRESSED COUNTY ASSISTANCE ACCOUNT**

31 **Sec. 201.** RCW 82.14.380 and 1998 c 321 s 10 (Referendum Bill No.
32 49) are each amended to read as follows:

33 (1) The distressed county assistance account is created in the
34 state treasury. Into this account shall be placed a portion of all
35 motor vehicle excise tax receipts as provided in RCW 82.44.110. At
36 such times as distributions are made under RCW 82.44.150, the state
37 treasurer shall distribute the funds in the distressed county

1 assistance account to each county imposing the sales and use tax
2 authorized under RCW 82.14.370 as of January 1, 1999, in the same
3 proportions as distributions of the tax imposed under RCW 82.14.370 for
4 these counties for the previous quarter.

5 (2) Funds distributed from the distressed county assistance account
6 shall be expended by the counties for criminal justice and other
7 purposes.

8 **PART III**

9 **DISTRESSED AREA SALES AND USE TAX DEFERRAL**

10 **Sec. 301.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to
11 read as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

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

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

17 (3) "Eligible area" means(~~(:—(a) A county in which the average~~
18 ~~level of unemployment for the three years before the year in which an~~
19 ~~application is filed under this chapter exceeds the average state~~
20 ~~unemployment for those years by twenty percent; (b) a county that has~~
21 ~~a median household income that is less than seventy five percent of the~~
22 ~~state median household income for the previous three years; (c) a~~
23 ~~metropolitan statistical area, as defined by the office of federal~~
24 ~~statistical policy and standards, United States department of commerce,~~
25 ~~in which the average level of unemployment for the calendar year~~
26 ~~immediately preceding the year in which an application is filed under~~
27 ~~this chapter exceeds the average state unemployment for such calendar~~
28 ~~year by twenty percent; (d) a designated community empowerment zone~~
29 ~~approved under RCW 43.63A.700 or a county containing such a community~~
30 ~~empowerment zone; (e) a town with a population of less than twelve~~
31 ~~hundred persons in those counties that are not covered under (a) of~~
32 ~~this subsection that are timber impact areas as defined in RCW~~
33 ~~43.31.601; (f) a county designated by the governor as an eligible area~~
34 ~~under RCW 82.60.047; or (g) a county that is contiguous to a county~~
35 ~~that qualifies as an eligible area under (a) or (f) of this~~
36 ~~subsection)) a county with fewer than one hundred persons per square
37 mile as determined annually by the office of financial management and~~

1 published by the department of revenue effective for the period July
2 1st through June 30th.

3 (4)(a) "Eligible investment project" means(~~(i~~
4 ~~(i))~~) ~~an investment project in an eligible area as defined in~~
5 ~~subsection (3)((a), (b), (c), (e), or (f))~~) of this section(~~(i~~
6 ~~(ii)~~) ~~That portion of an investment project in an eligible area as~~
7 ~~defined in subsection (3)(d) or (g) of this section which is directly~~
8 ~~utilized to create at least one new full-time qualified employment~~
9 ~~position for each three hundred thousand dollars of investment on which~~
10 ~~a deferral is requested in an application approved before July 1, 1994,~~
11 ~~and for each seven hundred fifty thousand dollars of investment on~~
12 ~~which a deferral is requested in an application approved after June 30,~~
13 ~~1994)).~~

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

19 (c) (~~For purposes of (a)(ii) of this subsection:~~
20 ~~(i) The department shall consider the entire investment project,~~
21 ~~including any investment in machinery and equipment that otherwise~~
22 ~~qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for~~
23 ~~purposes of determining the portion of the investment project that~~
24 ~~qualifies for deferral as an eligible investment project; and~~
25 ~~(ii) The number of new full-time qualified employment positions~~
26 ~~created by an investment project shall be deemed to be reduced by the~~
27 ~~number of full-time employment positions maintained by the recipient in~~
28 ~~any other community in this state that are displaced as a result of the~~
29 ~~investment project.~~

30 ~~(d))~~) "Eligible investment project" does not include any portion of
31 an investment project undertaken by a light and power business as
32 defined in RCW 82.16.010(5), other than that portion of a cogeneration
33 project that is used to generate power for consumption within the
34 manufacturing site of which the cogeneration project is an integral
35 part, or investment projects which have already received deferrals
36 under this chapter.

37 (5) "Investment project" means an investment in qualified buildings
38 or qualified machinery and equipment, including labor and services

1 rendered in the planning, installation, and construction of the
2 project.

3 (6) "~~Manufacturing~~" means ~~((all activities of a commercial or~~
4 ~~industrial nature wherein labor or skill is applied, by hand or~~
5 ~~machinery, to materials so that as a result thereof a new, different,~~
6 ~~or useful substance or article of tangible personal property is~~
7 ~~produced for sale or commercial or industrial use and shall include the~~
8 ~~production or fabrication of specially made or custom made articles))~~
9 the same as defined in RCW 82.04.120. "Manufacturing" also includes
10 computer programming, the production of computer software, and other
11 computer-related services, and the activities performed by research and
12 development laboratories and commercial testing laboratories.

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

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

26 (9) ~~(("Qualified employment position" means a permanent full-time~~
27 ~~employee employed in the eligible investment project during the entire~~
28 ~~tax year.~~

29 ~~(10))~~ "Qualified machinery and equipment" means all new industrial
30 and research fixtures, equipment, and support facilities that are an
31 integral and necessary part of a manufacturing or research and
32 development operation. "Qualified machinery and equipment" includes:
33 Computers; software; data processing equipment; laboratory equipment;
34 manufacturing components such as belts, pulleys, shafts, and moving
35 parts; molds, tools, and dies; operating structures; and all equipment
36 used to control or operate the machinery.

37 ~~((11))~~ (10) "Recipient" means a person receiving a tax deferral
38 under this chapter.

1 (~~(12)~~) (11) "Research and development" means the development,
2 refinement, testing, marketing, and commercialization of a product,
3 service, or process before commercial sales have begun. As used in
4 this subsection, "commercial sales" excludes sales of prototypes or
5 sales for market testing if the total gross receipts from such sales of
6 the product, service, or process do not exceed one million dollars.

7 **Sec. 302.** RCW 82.60.040 and 1997 c 156 s 5 are each amended to
8 read as follows:

9 (1) The department shall issue a sales and use tax deferral
10 certificate for state and local sales and use taxes due under chapters
11 82.08, 82.12, and 82.14 RCW on each eligible investment project that(~~(:~~

12 ~~(a))~~ is located in an eligible area as defined in RCW
13 82.60.020(~~(3) (a), (b), (c), (e), or (f);~~

14 ~~(b) Is located in an eligible area as defined in RCW~~
15 ~~82.60.020(3)(g) if seventy five percent of the new qualified employment~~
16 ~~positions are to be filled by residents of a contiguous county that is~~
17 ~~an eligible area as defined in RCW 82.60.020(3) (a) or (f); or~~

18 ~~(c) Is located in an eligible area as defined in RCW~~
19 ~~82.60.020(3)(d) if seventy five percent of the new qualified employment~~
20 ~~positions are to be filled by residents of a designated community~~
21 ~~empowerment zone approved under RCW 43.63A.700 located within the~~
22 ~~county in which the eligible investment project is located)).~~

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

25 (3) This section expires July 1, 2004.

26 **Sec. 303.** RCW 82.60.070 and 1995 1st sp.s. c 3 s 9 are each
27 amended to read as follows:

28 (1) (~~(Each recipient of a deferral granted under this chapter prior~~
29 ~~to July 1, 1994, shall submit a report to the department on December~~
30 ~~31st of each year during the repayment period until the tax deferral is~~
31 ~~repaid.)) Each recipient of a deferral granted under this chapter
32 after June 30, 1994, shall submit a report to the department on
33 December 31st of the year in which the investment project is certified
34 by the department as having been operationally completed, and on
35 December 31st of each of the seven succeeding calendar years. The
36 report shall contain information, as required by the department, from
37 which the department may determine whether the recipient is meeting the~~

1 requirements of this chapter. If the recipient fails to submit a
2 report or submits an inadequate report, the department may declare the
3 amount of deferred taxes outstanding to be immediately assessed and
4 payable.

5 (2) If, on the basis of a report under this section or other
6 information, the department finds that an investment project is not
7 eligible for tax deferral under this chapter (~~for reasons other than~~
8 ~~failure to create the required number of qualified employment~~
9 ~~positions)), the amount of deferred taxes outstanding for the project~~
10 shall be immediately due.

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

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

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

38 (6)) Notwithstanding any other subsection of this section,
39 deferred taxes need not be repaid on machinery and equipment for lumber

1 and wood products industries, and sales of or charges made for labor
2 and services, of the type which qualifies for exemption under RCW
3 82.08.02565 or 82.12.02565 to the extent the taxes have not been repaid
4 before July 1, 1995.

5 ~~((7))~~ (4) Notwithstanding any other subsection of this section,
6 deferred taxes on the following need not be repaid:

7 (a) Machinery and equipment, and sales of or charges made for labor
8 and services, which at the time of purchase would have qualified for
9 exemption under RCW 82.08.02565; and

10 (b) Machinery and equipment which at the time of first use would
11 have qualified for exemption under RCW 82.12.02565.

12 PART IV

13 DISTRESSED AREA BUSINESS AND OCCUPATION TAX JOB CREDIT

14 **Sec. 401.** RCW 82.62.010 and 1996 c 290 s 5 are each amended to
15 read 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 credit under this
19 chapter.

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

21 (3) "Eligible area" means ~~((:—(a) A county in which the average
22 level of unemployment for the three years before the year in which an
23 application is filed under this chapter exceeds the average state
24 unemployment for those years by twenty percent; (b) a county that has
25 a median household income that is less than seventy five percent of the
26 state median household income for the previous three years; (c) a
27 metropolitan statistical area, as defined by the office of federal
28 statistical policy and standards, United States department of commerce,
29 in which the average level of unemployment for the calendar year
30 immediately preceding the year in which an application is filed under
31 this chapter exceeds the average state unemployment for such calendar
32 year by twenty percent; (d) a designated community empowerment zone
33 approved under RCW 43.63A.700; or (e) subcounty areas in those counties
34 that are not covered under (a) of this subsection that are timber
35 impact areas as defined in RCW 43.31.601))~~ an area as defined in RCW
36 82.60.020.

1 (4)(a) "Eligible business project" means manufacturing or research
2 and development activities which are conducted by an applicant in an
3 eligible area at a specific facility, provided the applicant's average
4 full-time qualified employment positions at the specific facility will
5 be at least fifteen percent greater in the year for which the credit is
6 being sought than the applicant's average full-time qualified
7 employment positions at the same facility in the immediately preceding
8 year.

9 (b) "Eligible business project" does not include any portion of a
10 business project undertaken by a light and power business as defined in
11 RCW 82.16.010(5) or that portion of a business project creating
12 qualified full-time employment positions outside an eligible area or
13 those recipients of a sales tax deferral under chapter 82.61 RCW.

14 (5) "Manufacturing" means (~~all activities of a commercial or~~
15 ~~industrial nature wherein labor or skill is applied, by hand or~~
16 ~~machinery, to materials so that as a result thereof a new, different,~~
17 ~~or useful substance or article of tangible personal property is~~
18 ~~produced for sale or commercial or industrial use and shall include the~~
19 ~~production or fabrication of specially made or custom made articles))
20 the same as defined in RCW 82.04.120. "Manufacturing" also includes
21 computer programming, the production of computer software, and other
22 computer-related services, and the activities performed by research and
23 development laboratories and commercial testing laboratories.~~

24 (6) "Person" has the meaning given in RCW 82.04.030.

25 (7) "Qualified employment position" means a permanent full-time
26 employee employed in the eligible business project during the entire
27 tax year.

28 (8) "Tax year" means the calendar year in which taxes are due.

29 (9) "Recipient" means a person receiving tax credits under this
30 chapter.

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

37 **Sec. 402.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to
38 read as follows:

1 (1) A person shall be allowed a credit against the tax due under
2 chapter 82.04 RCW as provided in this section. (~~For an application~~
3 ~~approved before January 1, 1996, the credit shall equal one thousand~~
4 ~~dollars for each qualified employment position directly created in an~~
5 ~~eligible business project. For an application approved on or after~~
6 ~~January 1, 1996, the credit shall equal two thousand dollars for each~~
7 ~~qualified employment position directly created in an eligible business~~
8 ~~project. For an application approved on or after July 1, 1997,~~) The
9 credit shall equal: (a) Four thousand dollars for each qualified
10 employment position with wages and benefits greater than forty thousand
11 dollars annually that is directly created in an eligible business(~~(-~~
12 ~~For an application approved on or after July 1, 1997, the credit shall~~
13 ~~equal)) and (b) two thousand dollars for each qualified employment~~
14 position with wages and benefits less than or equal to forty thousand
15 dollars annually that is directly created in an eligible business.

16 (2) The department shall keep a running total of all credits
17 granted under this chapter during each fiscal year. The department
18 shall not allow any credits which would cause the tabulation to exceed
19 (~~five million five hundred thousand dollars in fiscal year 1998 or~~
20 ~~1999 or)) seven million five hundred thousand dollars in any fiscal
21 year (~~thereafter~~). If all or part of an application for credit is
22 disallowed under this subsection, the disallowed portion shall be
23 carried over for approval the next fiscal year. However, the
24 applicant's carryover into the next fiscal year is only permitted if
25 the tabulation for the next fiscal year does not exceed the cap for
26 that fiscal year as of the date on which the department has disallowed
27 the application.~~

28 (3) No recipient may use the tax credits to decertify a union (~~or~~
29 ~~to displace existing jobs in any community in the state~~)).

30 (4) No recipient may receive a tax credit on taxes which have not
31 been paid during the taxable year.

32 **PART V**

33 **TECHNOLOGY-BASED BUSINESSES**

34 **Software**

35 NEW SECTION. **Sec. 501.** It is the intent of the legislature to
36 attract and retain technology-based businesses in distressed counties.
37 Section 502 of this act provides a tax incentive to those businesses

1 that develop or manufacture software in distressed counties. Section
2 503 of this act provides a tax incentive to those businesses that are
3 engaged in the business of providing technical support services from
4 distressed counties. Encouragement of these types of business will
5 stimulate the information technology industry and be of benefit to the
6 state economy in general. To further the impact and benefit of this
7 program, this incentive is limited to those counties of the state that
8 are characterized by unemployment or low income. The legislature finds
9 that providing this targeted incentive will both increase its
10 effectiveness and create a high technology work force in distressed
11 counties.

12 NEW SECTION. **Sec. 502.** A new section is added to chapter 82.04
13 RCW to read as follows:

14 (1) Subject to the limits and provisions of this section, a credit
15 is authorized against the tax otherwise due under this chapter for
16 persons engaged in a distressed county in the business of manufacturing
17 or programming of software, as those terms are defined in this section.

18 (2) A person who partially or totally relocates a business from one
19 distressed county to another distressed county is eligible for any
20 qualifying new jobs created as a result of the relocation but is not
21 eligible to receive credit for the jobs moved from one county to the
22 other.

23 (3)(a) To qualify for the credit, the qualifying activity of the
24 person must be conducted in a distressed county and the qualified
25 employment position must be located in the distressed county.

26 (b) If an activity is conducted both from a distressed county and
27 outside of a distressed county, the credit is available if at least
28 ninety percent of the qualifying activity takes place within a
29 distressed county. If the qualifying activity is a service taxable
30 activity, the place where the work is performed is the place at which
31 the activity is conducted.

32 (4)(a) The credit under this section shall equal one thousand
33 dollars for each qualified employment position created after July 1,
34 1999, in an eligible area. A credit is earned for the calendar year
35 the person is hired to fill the position. Additionally a credit is
36 earned for each year the position is maintained over the subsequent
37 consecutive years, up to six years. The county must meet the
38 definition of a distressed county at the time the position is filled.

1 If the county does not have a distressed county status the following
2 year or years, the position is still eligible for the remaining years
3 if all other conditions are met.

4 (b) Credit may not be taken for hiring of persons into positions
5 that exist before July 1, 1999. Credit is authorized for new employees
6 hired for new positions created on or after July 1, 1999. New
7 positions filled by existing employees are eligible for the credit
8 under this section only if the position vacated by the existing
9 employee is filled by a new hire. A business that is a sole
10 proprietorship without any employees is equivalent to one employee
11 position and this type of business is eligible to receive credit for
12 one position.

13 (c) If a position is filled before July 1st, this position is
14 eligible for the full yearly credit. If it is filled after June 30th,
15 this position is eligible for half of the credit.

16 (d) A person that has engaged in qualifying activities in the
17 distressed county before the effective date of this section qualifies
18 for the credit under this section for positions created and filled
19 after the effective date of this section.

20 (5) No application is necessary for the tax credit. The person
21 must keep records necessary for the department to verify eligibility
22 under this section. This information includes information relating to
23 description of qualifying activity engaged in the distressed county and
24 outside the distressed county by the person as well as detailed records
25 on positions and employees. The department shall, in consultation with
26 a representative group of affected taxpayers, develop a method of
27 segregating activity and related income so that those persons who
28 engage in multiple activities can determine eligibility for credit
29 under this section.

30 (6) If at any time the department finds that a person is not
31 eligible for tax credit under this section, the amount of taxes for
32 which a credit has been claimed shall be immediately due. The
33 department shall assess interest, but not penalties, on the taxes for
34 which the person is not eligible. The interest shall be assessed at
35 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
36 shall be assessed retroactively to the date the tax credit was taken,
37 and shall accrue until the taxes for which a credit has been used are
38 repaid.

1 (7) The credit under this section may be used against any tax due
2 under this chapter, but in no case may a credit earned during one
3 calendar year be carried over to be credited against taxes incurred in
4 a subsequent calendar year. A person is not eligible to receive a
5 credit under this section if the person is receiving credit for the
6 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
7 the credit under section 503 of this act. No refunds may be granted
8 for credits under this section.

9 (8) County eligibility under this section shall be based on the
10 same list as published by the department under chapter 82.60 RCW. The
11 eligibility period is from July 1st of each year to June 30th of the
12 next year.

13 (9) A person taking tax credits under this section shall make an
14 annual report to the department. The report shall be in a letter form
15 and shall include the following information: Number of positions for
16 which credit is being claimed, type of position for which credit is
17 being claimed, type of activity in which the person is engaged in the
18 county, and how long the person has been located in the county. The
19 report must be filed by January 30th of each year for which credit was
20 claimed during the previous year.

21 (10) Transfer of ownership does not affect credit eligibility;
22 however, the credit is available to the successor for remaining periods
23 in the seven years only if the eligibility conditions of this section
24 are met.

25 (11) As used in this section:

26 (a) "Distressed county" means an eligible area as defined in RCW
27 82.60.020.

28 (b) "Manufacturing" means the same as "to manufacture" under RCW
29 82.04.120. Manufacturing includes the activities of both manufacturers
30 and processors for hire.

31 (c) "Programming" means the activities that involve the creation or
32 modification of software, as that term is defined in this chapter, and
33 that are taxable as a service under RCW 82.04.290(2) or as a retail
34 sale under RCW 82.04.050.

35 (d) "Qualifying activity" means manufacturing or programming of
36 software.

37 (e) "Qualified employment position" means a permanent full-time
38 position doing programming of software or manufacturing of software.
39 This excludes administrative, professional, service, executive, and

1 other similar positions. If an employee is either voluntarily or
2 involuntarily separated from employment, the employment position is
3 considered filled on a full-time basis if the employer is either
4 training or actively recruiting a replacement employee. Full-time
5 means a position for at least thirty-five hours a week.

6 (f) "Software" has the same meaning as defined in RCW 82.04.215.

7 **Help Desk Services**

8 NEW SECTION. **Sec. 503.** A new section is added to chapter 82.04
9 RCW to read as follows:

10 (1) Subject to the limits and provisions of this section, a credit
11 is authorized against the tax otherwise due under this chapter for
12 persons engaged in a distressed county in the business of providing
13 information technology help desk services to third parties.

14 (2) To qualify for the credit, the help desk services must be
15 conducted from a distressed county.

16 (3)(a) For the first eighty-four months in which the person is
17 engaged in the activity of providing information technology help desk
18 services in the distressed county, the amount of the credit shall be
19 equal to one hundred percent of the amount of tax due under this
20 chapter that is attributable to providing the services from the
21 distressed county. In order to qualify for the credit under this
22 subsection (3)(a), the county must meet the definition of "distressed
23 county" at the time the person begins to conduct qualifying business in
24 the county. If the county subsequently does not qualify for distressed
25 county status, the person may continue to take the credit for the
26 remaining time in the eighty-four months if all other conditions are
27 met. A person who locates in a county during a period of time for
28 which the county does not meet the distressed county status is not
29 eligible to receive the credit under this subsection (3)(a).

30 (b) A person who is not eligible for the credit under (a) of this
31 subsection is potentially eligible for credit under this subsection
32 (3)(b). If the person is engaged in the activity of providing
33 information technology help desk services in a distressed county, the
34 amount of the credit shall equal sixty-eight percent of the amount of
35 tax due under this chapter that is attributable to providing the
36 service from the distressed county. In order to qualify for the credit
37 under this subsection, the county must meet the definition of

1 "distressed county" during the period of time for which the credit is
2 being claimed. A person is not eligible for a credit under this
3 subsection (3)(b) for activity conducted during any period of time the
4 county does not have a distressed county status.

5 (c) A person who has engaged in providing information technology
6 help desk services in the distressed county before the effective date
7 of this section qualifies for the credit under (a) of this subsection
8 for any remaining time in the eighty-four months, after which time the
9 person is potentially eligible for the credit under (b) of this
10 subsection. A person who has engaged in providing information
11 technology help desk services in the distressed county before the
12 effective date of this section for more than eighty-four months is
13 potentially eligible for the credit under (b) of this subsection.

14 (4) No application is necessary for the tax credit. The person
15 must keep records necessary for the department to verify eligibility
16 under this section. These records include information relating to
17 description of activity engaged in a distressed county by the person.

18 (5) If at any time the department finds that a person is not
19 eligible for tax credit under this section, the amount of taxes for
20 which a credit has been used is immediately due. The department shall
21 assess interest, but not penalties, on the credited taxes for which the
22 person is not eligible. The interest shall be assessed at the rate
23 provided for delinquent excise taxes under chapter 82.32 RCW, shall be
24 assessed retroactively to the date the tax credit was taken, and shall
25 accrue until the taxes for which a credit has been used are repaid.

26 (6) The credit under this section may be used against any tax due
27 under this chapter, but in no case may a credit earned during one
28 calendar year be carried over to be credited against taxes incurred in
29 a subsequent calendar year. A person is not eligible to receive a
30 credit under this section if the person is receiving credit under
31 section 502 of this act or RCW 82.04.44525 or chapter 82.62 RCW. No
32 refunds may be granted for credits under this section.

33 (7) County eligibility under this section shall be based on the
34 same list as published by the department under chapter 82.60 RCW. The
35 eligibility period is from July 1st of each year to June 30th of the
36 next year.

37 (8) A person taking tax credits under this section shall make an
38 annual report to the department. The report shall be in a letter form
39 and shall include the following information: Type of activity in which

1 the person is engaged in the county, number of employees in the
2 distressed county, and how long the person has been located in the
3 county. The report must be filed by January 30th of each year for
4 which credit was claimed during the previous year.

5 (9) Transfer of ownership does not affect credit eligibility;
6 however, the credit is available to the successor only if the
7 eligibility conditions of this section are met.

8 (10) As used in this section:

9 (a) "Distressed county" means an eligible area as defined in RCW
10 82.60.020.

11 (b) "First eighty-four months" means the eighty-four months of
12 operation in a county following commencement of business activity.
13 Business activity is deemed to commence upon the act of engaging in the
14 business of providing the help desk services from the county.

15 (c) "Information technology help desk services" means the following
16 inbound technical or customer support services performed using
17 electronic and telephonic communication:

- 18 (i) Hardware and software maintenance;
- 19 (ii) Hardware and software diagnostics and troubleshooting;
- 20 (iii) Hardware and software installation;
- 21 (iv) Hardware and software repair;
- 22 (v) Hardware and software information and training; and
- 23 (vi) Hardware and software upgrade.

24 NEW SECTION. **Sec. 504.** A new section is added to chapter 82.62
25 RCW to read as follows:

26 A person is not eligible to receive a credit under this chapter if
27 the person is receiving credit for the same position under section 502
28 of this act or RCW 82.04.44525 or is receiving a credit under section
29 503 of this act.

30 NEW SECTION. **Sec. 505.** A new section is added to chapter 82.08
31 RCW to read as follows:

32 (1) The following definitions apply throughout this section and
33 section 506 of this act, unless the context requires otherwise.

34 (a) "Building" means a structure with walls and a roof, used to
35 house machinery and equipment used exclusively at the eligible facility
36 and/or used to house personnel who staff the eligible facility.

1 (b) "Distressed county" means an eligible area as defined in RCW
2 82.60.020.

3 (c) "Eligible facility" means a facility located in a distressed
4 county at which information technology help desk services are provided.

5 (d) "Equipment" means fixtures and devices that are integral and
6 necessary to the operation of the eligible facility, including tangible
7 personal property that becomes an ingredient or component of a fixture
8 or device, and including repair parts and replacement parts. The term
9 includes office and administrative equipment that is integral and
10 necessary to the operation of the eligible facility. "Equipment" does
11 not include: (i) Hand-powered tools, such as hammers, screwdrivers,
12 pliers, and saws; (ii) property with a useful life of less than one
13 year, such as consumables, supplies, single-use items, and other
14 property with a useful life of less than one year; or (iii)
15 transmission equipment between facilities, such as cable, trunks,
16 wires, satellites, or other such equipment.

17 (e) "Information technology help desk services" means services at
18 a discrete physical location from which information technology help
19 desk services, as defined in section 503 of this act, are provided to
20 third parties.

21 (2) The tax levied by RCW 82.08.020 shall not apply to sales to a
22 person engaged in the activity of providing information technology help
23 desk services from an eligible facility of (a) equipment used
24 exclusively at an eligible facility, and labor and services rendered in
25 respect to installing, repairing, cleaning, altering, or improving the
26 equipment; or (b) construction of a building, including materials, and
27 including service and labor costs. Construction includes expansion of
28 floor space but it does not include renovation, remodeling, or repair
29 of existing space. The purchaser shall provide the seller with an
30 exemption certificate in a form and manner prescribed by the
31 department. The seller shall retain a copy of the certificate for the
32 seller's files.

33 NEW SECTION. **Sec. 506.** A new section is added to chapter 82.12
34 RCW to read as follows:

35 The provisions of this chapter shall not apply with respect to
36 equipment used exclusively at an eligible facility and with respect to
37 materials incorporated in the construction of an eligible facility.
38 The definitions in section 505 of this act apply to this section.

1 NEW SECTION. **Sec. 507.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 82.60.045 (Eligible projects--Additional requirements) and
4 1995 1st sp.s. c 3 s 7 & 1994 sp.s. c 1 s 4; and

5 (2) RCW 82.60.047 (Governor designation of county as eligible
6 area--Natural disaster, business closure, military base closure, mass
7 layoff) and 1994 sp.s. c 1 s 9.

8 **PART VI**
9 **ELECTRIC UTILITIES**

10 NEW SECTION. **Sec. 601.** The legislature finds that it is necessary
11 to employ multiple approaches to revitalize the economy of Washington
12 state's rural areas. The legislature also finds that where possible,
13 Washington state should develop programs which can complement other
14 private, state, and federal programs. It is the intent of section 602
15 of this act to complement such rural economic development efforts by
16 creating a public utility tax offset program to help establish locally
17 based electric utility revolving fund programs to be used for economic
18 development and job creation.

19 NEW SECTION. **Sec. 602.** A new section is added to chapter 82.16
20 RCW to read as follows:

21 (1) The following definitions apply to this section:

22 (a) "Qualifying project" means a project designed to achieve job
23 creation or business retention, to add or upgrade nonelectrical
24 infrastructure, to add or upgrade health and safety facilities, to
25 accomplish energy and water use efficiency improvements, including
26 renewable energy development, or to add or upgrade emergency services
27 in any designated qualifying rural area.

28 (b) "Qualifying rural area" means:

29 (i) An eligible area as defined in RCW 82.60.020; or

30 (ii) Any geographic area in the state that receives electricity
31 from a light and power business with fewer than twenty-six meters per
32 mile of distribution line as determined and published by the department
33 of revenue effective July 1st of each year. The department shall use
34 current data provided by the electricity industry.

1 (c) "Electric utility rural economic development revolving fund"
2 means a fund devoted exclusively to funding qualifying projects in
3 qualifying rural areas.

4 (d) "Local board" is a board of directors with at least, but not
5 limited to, three members representing local businesses and community
6 groups who have been appointed by the sponsoring electric utility to
7 oversee and direct the activities of the electric utility rural
8 economic development revolving fund.

9 (e) "Geographic area" means any portion of a light and power
10 business' service territory, either in whole or any subdivision
11 thereof.

12 (2) A light and power business with fewer than twenty-six active
13 meters per mile of distribution line in any geographic area in the
14 state shall be allowed a credit against taxes due under this chapter in
15 an amount equal to fifty percent of contributions made in any calendar
16 year directly to an electric utility rural economic development
17 revolving fund. The credit shall be taken in a form and manner as
18 required by the department. The credit under this section shall not
19 exceed one hundred thousand dollars per calendar year per light and
20 power business. The credit may not exceed the tax that would otherwise
21 be due under this chapter. Refunds shall not be granted in the place
22 of credits. Expenditures not used to earn a credit in one calendar
23 year may not be used to earn a credit in subsequent years.

24 (3) The right to earn tax credits under this section expires
25 December 31, 2005.

26 (4) To qualify for the credit in subsection (2) of this section,
27 the light and power business shall establish an electric utility rural
28 economic development revolving fund which is governed by a local board
29 whose members shall reside in the qualifying rural area served by the
30 light and power business. The local board shall have authority to
31 determine all criteria and conditions for the expenditure of funds from
32 the electric utility rural economic development fund, and for the terms
33 and conditions of repayment.

34 (5) Any funds repaid to the electric utility rural economic
35 development fund by recipients shall be made available for additional
36 qualifying projects.

37 (6) If at any time the electric utility rural economic development
38 fund is dissolved, any moneys claimed as a tax credit under this

1 section shall either be granted to a qualifying project or refunded to
2 the state within two years of termination.

3 (7) The total amount of credits that may be used in any fiscal year
4 shall not exceed three hundred seventy-five thousand dollars in any
5 fiscal year. The department shall allow the use of earned credits on
6 a first-come, first-served basis. Unused earned credits may be carried
7 over to subsequent years.

8 **PART VII**

9 **COMMUNITY EMPOWERMENT ZONES**

10 NEW SECTION. **Sec. 701.** A new section is added to chapter 82.60
11 RCW to read as follows:

12 (1) For the purposes of this section:

13 (a) "Eligible area" also means a designated community empowerment
14 zone approved under RCW 43.63A.700.

15 (b) "Eligible investment project" also means an investment project
16 in an eligible area as defined in this section.

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

20 (2) In addition to the provisions of RCW 82.60.040, the department
21 shall issue a sales and use tax deferral certificate for state and
22 local sales and use taxes due under chapters 82.08, 82.12, and 82.14
23 RCW, on each eligible investment project that is located in an eligible
24 area, if the applicant establishes that at the time the project is
25 operationally complete:

26 (a) The applicant will hire at least one qualified employment
27 position for each seven hundred fifty thousand dollars of investment on
28 which a deferral is requested; and

29 (b) The qualified employment positions will be filled by persons
30 who at the time of hire are residents of the community empowerment zone
31 in which the project is located. As used in this subsection,
32 "resident" means the person makes his or her home in the community
33 empowerment zone. A mailing address alone is insufficient to establish
34 that a person at the time of hire is a resident for the purposes of
35 this section. The persons must be hired after the date the application
36 is filed with the department.

1 (3) Except as provided in this section, all other provisions and
2 eligibility requirements of this chapter apply to applicants eligible
3 under this section.

4 (4) If a person does not meet the requirements of subsection (2)(a)
5 and (b) of this section by the end of the calendar year following the
6 year in which the project is certified as operationally complete, all
7 deferred taxes are immediately due. For the remaining years for which
8 the person must report under RCW 82.60.070, a recipient under this
9 section is subject to the eligibility standards applicable to other
10 recipients under this chapter.

11 NEW SECTION. **Sec. 702.** A new section is added to chapter 82.62
12 RCW to read as follows:

13 (1) For the purposes of this section "eligible area" also means a
14 designated community empowerment zone approved under RCW 43.63A.700.

15 (2) An eligible business project located within an eligible area as
16 defined in this section qualifies for a credit under this chapter for
17 those employees who at the time of hire are residents of the community
18 empowerment zone in which the project is located, if the requirements
19 under this chapter are met. As used in this subsection, "resident"
20 means the person makes his or her home in the community empowerment
21 zone. A mailing address alone is insufficient to establish that a
22 person at the time of hire is a resident for the purposes of this
23 section.

24 (3) Except as provided in this section, all other provisions and
25 eligibility requirements of this chapter apply to applicants eligible
26 under this section.

27 **PART VIII**
28 **MISCELLANEOUS**

29 NEW SECTION. **Sec. 801.** Part headings and subheadings used in this
30 act are not any part of the law.

31 NEW SECTION. **Sec. 802.** This act takes effect August 1, 1999.

32 NEW SECTION. **Sec. 803.** Sections 301 through 303, 401, 402, and
33 501 of this act do not affect any existing right acquired or liability
34 or obligation under the sections amended or repealed in those sections

1 or any rule or order adopted under those sections, nor does it affect
2 any proceeding instituted under those sections.

3 NEW SECTION. **Sec. 804.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected."

7 **ESHB 2260** - S COMM AMD

8 By Committee on Agriculture & Rural Economic Development

9 NOT ADOPTED 4/15/99

10 On page 1, line 1 of the title, after "counties;" strike the
11 remainder of the title and insert "amending RCW 82.14.370, 82.14.380,
12 82.60.020, 82.60.040, 82.60.070, 82.62.010, and 82.62.030; adding new
13 sections to chapter 82.04 RCW; adding new sections to chapter 82.62
14 RCW; adding a new section to chapter 82.08 RCW; adding a new section to
15 chapter 82.12 RCW; adding a new section to chapter 82.16 RCW; adding a
16 new section to chapter 82.60 RCW; creating new sections; repealing RCW
17 82.60.045 and 82.60.047; providing an effective date; and providing an
18 expiration date."

--- END ---