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HOUSE BILL 1024

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State of Washington

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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

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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 new sections to chapter 82.08 RCW;  
4 adding new sections 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, chemicals, materials, and labor used in  
5 manufacturing, research and development, and other activities has  
6 placed our state's private sector at a competitive disadvantage with  
7 other states and serves as a significant disincentive to the continuous  
8 improvement of products, technology, and modernization necessary for  
9 the preservation, stabilization, and expansion of employment and to  
10 ensure a stable 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 remove tax policy barriers 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 process, or to sales of or charges made for  
21 labor and services rendered in respect to installing the machinery or  
22 equipment.

23 (2) "Machinery" means a major mechanical device that performs an  
24 essential function in a manufacturing process.

25 (3) "Equipment" means a device separate from machinery but  
26 essential to a manufacturing process.

27 (4) "Machinery or equipment" does not include:

28 (a) Hand tools;

29 (b) Consumable supplies;

30 (c) Property with a useful life of one year or less;

31 (d) Property used to maintain or repair machinery or equipment;

32 (e) Repair parts required to restore machinery or equipment to  
33 normal working order;

34 (f) Replacement parts that do not improve efficiency or extend the  
35 useful life of the entire piece of machinery or equipment; or

36 (g) Property that is permanently affixed to and becomes a physical  
37 part of a structure, including but not limited to machine foundations  
38 and materials for their construction, and building utility systems for

1 heating, air conditioning, ventilation, plumbing, or electrical  
2 distribution.

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

5 (a) Effects a direct and immediate physical change upon tangible  
6 personal property as part of a manufacturing process;

7 (b) Guides or measures a direct and immediate physical change upon  
8 the property when the function is an integral and essential part of the  
9 manufacturing process;

10 (c) Tests or measures the property when the function is an integral  
11 and essential part of the manufacturing process;

12 (d) Transports, conveys, or handles the property from one step in  
13 the manufacturing process to another in a continuous flow; or

14 (e) Places the property in the container, package, or wrapping in  
15 which the property is normally sold or transported when the function is  
16 an integral and essential part of the manufacturing.

17 (6) "Manufacturing process" means to manufacture tangible personal  
18 property for ultimate retail sale, or be used as machinery or equipment  
19 to manufacture tangible personal property for ultimate retail sale.  
20 The manufacturing process begins when the raw materials enter the  
21 manufacturing facility and ends when the finished product leaves the  
22 manufacturing facility. The term does not include research and  
23 development, the production of electricity, the preparation of food  
24 products on the premises of a person selling food products at retail,  
25 or the production of newspapers.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW  
27 to read as follows:

28 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
29 manufacturer or processor for hire of pollution control equipment  
30 required by federal or state laws or regulations to be installed and  
31 used in a manufacturing facility to prevent or reduce air or water  
32 pollution or contamination that might otherwise result from the  
33 operation of the facility, or to sales of or charges made for labor and  
34 services rendered in respect to installing the pollution control  
35 equipment.

36 (2) This section shall not apply to sales of tangible personal  
37 property, or sales of or charges made for labor and services, purchased  
38 and used for maintenance or repairs of the pollution control equipment.

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

3        (1) The provisions of this chapter shall not apply in respect to  
4 the use by a manufacturer or processor for hire of machinery or  
5 equipment used directly in a manufacturing process.

6        (2) "Machinery" means a major mechanical device that performs an  
7 essential function in a manufacturing process.

8        (3) "Equipment" means a device separate from machinery but  
9 essential to a manufacturing process.

10       (4) "Machinery or equipment" does not include:

11       (a) Hand tools;

12       (b) Consumable supplies;

13       (c) Property with a useful life of one year or less;

14       (d) Property used to maintain or repair machinery or equipment;

15       (e) Repair parts required to restore machinery or equipment to  
16 normal working order;

17       (f) Replacement parts that do not improve efficiency or extend the  
18 useful life of the entire piece of machinery or equipment; or

19       (g) Property that is permanently affixed to and becomes a physical  
20 part of a structure, including but not limited to machine foundations  
21 and materials for their construction, and building utility systems for  
22 heating, air conditioning, ventilation, plumbing, or electrical  
23 distribution.

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

26       (a) Effects a direct and immediate physical change upon tangible  
27 personal property as part of a manufacturing process;

28       (b) Guides or measures a direct and immediate physical change upon  
29 the property when the function is an integral and essential part of the  
30 manufacturing process;

31       (c) Tests or measures the property when the function is an integral  
32 and essential part of the manufacturing process;

33       (d) Transports, conveys, or handles the property from one step in  
34 the manufacturing process to another in a continuous flow; or

35       (e) Places the property in the container, package, or wrapping in  
36 which the property is normally sold or transported when the function is  
37 an integral and essential part of the manufacturing process.

38       (6) "Manufacturing process" means to manufacture tangible personal  
39 property for ultimate retail sale, or be used as machinery or equipment

1 to manufacture tangible personal property for ultimate retail sale.  
2 The manufacturing process begins when the raw materials enter the  
3 manufacturing facility and ends when the finished product leaves the  
4 manufacturing facility. The term does not include research and  
5 development, the production of electricity, the preparation of food  
6 products on the premises of a person selling food products at retail,  
7 or the production of newspapers.

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

10 (1) The provisions of this chapter shall not apply in respect to  
11 the use by a manufacturer or processor for hire of pollution control  
12 equipment required by federal or state laws or regulations to be  
13 installed and used in a manufacturing facility to prevent or reduce air  
14 or water pollution or contamination that might otherwise result from  
15 the operation of the facility.

16 (2) This section shall not apply to the use of tangible personal  
17 property for maintenance or repairs of the pollution control equipment.

18 **Sec. 6.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to read  
19 as follows:

20 "Consumer" means the following:

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

1 subsequently used in producing magnesium for sale, if the primary  
2 purpose of such property is to create a chemical reaction directly  
3 through contact with an ingredient of ferrosilicon;

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

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

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

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

38 (6) Any person engaged in the business of constructing, repairing,  
39 decorating, or improving new or existing buildings or other structures

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

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

18 (8) Any person who is a lessor of pollution control equipment, the  
19 rental of which is exempt from the tax imposed by RCW 82.08.020 under  
20 section 3 of this act, with respect to the sale of or charge made for  
21 tangible personal property consumed and for labor and services rendered  
22 in respect to repairing the pollution control equipment.

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

25 Unless the context clearly requires otherwise, the definitions in  
26 this section apply throughout this chapter.

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

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

30 (3) "Eligible area" means: (a) A county in which the average level  
31 of unemployment for the three years before the year in which an  
32 application is filed under this chapter exceeds the average state  
33 unemployment for those years by twenty percent; (b) a metropolitan  
34 statistical area, as defined by the office of federal statistical  
35 policy and standards, United States department of commerce, in which  
36 the average level of unemployment for the calendar year immediately  
37 preceding the year in which an application is filed under this chapter  
38 exceeds the average state unemployment for such calendar year by twenty

1 percent; (c) a designated community empowerment zone approved under RCW  
2 43.63A.700; (d) a town with a population of less than twelve hundred  
3 persons in those counties that are not covered under (a) of this  
4 subsection that are timber impact areas as defined in RCW 43.31.601; or  
5 (e) a county designated by the governor as an eligible area under RCW  
6 82.60.047.

7 (4)(a) "Eligible investment project" means an investment in  
8 qualified buildings or qualified machinery and equipment, and that  
9 portion of an investment in a qualified cogeneration project which~~((+  
10 (i)))~~ is directly ~~((utilized))~~ used to create at least one new  
11 full-time qualified employment position for each ~~((three hundred~~  
12 ~~thousand dollars of investment on which a deferral is requested in an~~  
13 ~~application approved before July 1, 1994, and for each))~~ seven hundred  
14 fifty thousand dollars of investment on which a deferral is requested  
15 ~~((in an application approved after June 30, 1994; and~~  
16 ~~(ii) Either initiates a new operation, or expands or diversifies a~~  
17 ~~current operation by expanding, equipping, or renovating an existing~~  
18 ~~facility with costs in excess of twenty five percent of the true and~~  
19 ~~fair value of the facility prior to improvement)), including labor and  
20 services rendered in the planning, installation, and construction of  
21 the project.~~

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

27 ~~((b))~~ For purposes of (a)~~((i))~~ of this subsection, the number  
28 of new full-time qualified employment positions created by an  
29 investment project shall be deemed to be reduced by the number of full-  
30 time employment positions maintained by the recipient in any other  
31 community in this state that are displaced as a result of the  
32 investment project.

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

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

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

15       ((7)) (6) "Person" has the meaning given in RCW 82.04.030.

16       ((8)) (7) "Qualified buildings" means construction of new  
17 structures, and expansion or renovation of existing structures with  
18 costs in excess of twenty-five percent of the true and fair value of  
19 the structures prior to improvement, where the structures are used for  
20 manufacturing and research and development activities, including plant  
21 offices and warehouses or other facilities for the storage of raw  
22 material or finished goods if such facilities are an essential or an  
23 integral part of a factory, mill, plant, or laboratory used for  
24 manufacturing or research and development. If a building is used  
25 partly for manufacturing or research and development and partly for  
26 other purposes, the applicable tax deferral shall be determined by  
27 apportionment of the costs of construction under rules adopted by the  
28 department.

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

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

35       (10) "Qualified machinery and equipment" means all new industrial  
36 and research fixtures, equipment, and support facilities that are an  
37 integral and necessary part of a manufacturing or research and  
38 development operation. "Qualified machinery and equipment" includes:  
39 Computers; software; data processing equipment; laboratory equipment;

1 manufacturing components such as belts, pulleys, shafts, and moving  
2 parts; molds, tools, and dies; operating structures; and all equipment  
3 used to control or operate the machinery.

4 (11) "Recipient" means a person receiving a tax deferral under this  
5 chapter.

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

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

14 (1) Each recipient of a deferral granted under this chapter prior  
15 to July 1, 1994, shall submit a report to the department on December  
16 31st of each year during the repayment period until the tax deferral is  
17 repaid. Each recipient of a deferral granted under this chapter after  
18 June 30, 1994, shall submit a report to the department on December 31st  
19 of the year in which the investment project is certified by the  
20 department as having been operationally completed, and on December 31st  
21 of each of the seven succeeding calendar years. The report shall  
22 contain information, as required by the department, from which the  
23 department may determine whether the recipient is meeting the  
24 requirements of this chapter. If the recipient fails to submit a  
25 report or submits an inadequate report, the department may declare the  
26 amount of deferred taxes outstanding to be immediately assessed and  
27 payable.

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

34 (3) If, on the basis of a report under this section or other  
35 information, the department finds that an investment project for which  
36 a deferral has been granted under this chapter prior to July 1, 1994,  
37 has been operationally complete for three years and has failed to  
38 create the required number of qualified employment positions, the

1 department shall assess interest, but not penalties, on the deferred  
2 taxes for the project. The interest shall be assessed at the rate  
3 provided for delinquent excise taxes, shall be assessed retroactively  
4 to the date of deferral, and shall accrue until the deferred taxes are  
5 repaid.

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

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

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

25 (a) Tangible personal property, and sales of or charges made for  
26 labor and services, of the kind that qualify for exemption under  
27 section 2 or 3 of this act; and

28 (b) Tangible personal property of the kind that qualifies for  
29 exemption under section 4 or 5 of this act.

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

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

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

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

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

38 (4) "Eligible investment project" means:

1 (a) Construction of new buildings and the acquisition of new  
2 related machinery and equipment when the buildings, machinery, and  
3 equipment are to be used for either manufacturing or research and  
4 development activities, which construction is commenced prior to  
5 December 31, (~~1998~~) 1995; or

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

12 (c) Acquisition of all new or used machinery, equipment, or other  
13 personal property for use in the production or casting of aluminum at  
14 an aluminum smelter or at facilities related to an aluminum smelter, if  
15 the plant was in operation prior to 1975 and has ceased operations or  
16 is in imminent danger of ceasing operations for economic reasons, as  
17 determined by the department, and if the person applying for a deferral  
18 (i) has consulted with any collective bargaining unit that represented  
19 employees of the plant pursuant to a collective bargaining agreement  
20 that was in effect either immediately prior to the time the plant  
21 ceased operations or during the period when the plant was in imminent  
22 danger of ceasing operations, on the proposed operation of the plant  
23 and on the terms and conditions of employment for wage and salaried  
24 employees and (ii) has obtained a written concurrence from the  
25 bargaining unit on the decision to apply for a deferral under this  
26 chapter; or

27 (d) Modernization projects involving construction, acquisition, or  
28 upgrading of equipment or machinery, including services and labor,  
29 which are commenced after May 19, 1987, and are intended to increase  
30 the operating efficiency of existing plants which are either aluminum  
31 smelters or aluminum rolling mills or of facilities related to such  
32 plants, if the plant was in operation prior to 1975, and if the person  
33 applying for a deferral (i) has consulted with any collective  
34 bargaining unit that represents employees of the plant on the proposed  
35 operation of the plant and the terms and conditions of employment for  
36 wage and salaried employees and (ii) has obtained a written concurrence  
37 from the bargaining unit on the decision to apply for a deferral under  
38 this chapter.

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

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

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

20 (8) "Machinery and equipment" means all industrial and research  
21 fixtures, equipment, and support facilities that are an integral and  
22 necessary part of a manufacturing or research and development  
23 operation. "Qualified machinery and equipment" includes computers;  
24 software; data processing equipment; laboratory equipment;  
25 manufacturing components such as belts, pulleys, shafts, and moving  
26 parts; molds, tools, and dies; operating structures; and all equipment  
27 used to control or operate the machinery. For purposes of this  
28 chapter, new machinery and equipment means either new to the taxing  
29 jurisdiction of the state or new to the certificate holder. Used  
30 machinery and equipment may be treated as new equipment and machinery  
31 if the certificate holder either brings the machinery and equipment  
32 into Washington or makes a retail purchase of the machinery and  
33 equipment in Washington or elsewhere.

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

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

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

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

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

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

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

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

11 (3) RCW 82.61.040 and 1993 sp.s. c 25 s 408, 1988 c 41 s 2, 1986 c  
12 116 s 10, & 1985 ex.s. c 2 s 8.

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

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

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

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

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

27 (4) "Biotechnology" means the application of technologies, such as  
28 recombinant DNA techniques, biochemistry, molecular and cellular  
29 biology, genetics and genetic engineering, cell fusion techniques, and  
30 new bioprocesses, using living organisms, or parts of organisms, to  
31 produce or modify products, to improve plants or animals, to develop  
32 microorganisms for specific uses, to identify targets for small  
33 molecule pharmaceutical development, or to transform biological systems  
34 into useful processes and products or to develop microorganisms for  
35 specific uses.

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

1 (6) "Electronic device technology" means technologies involving  
2 microelectronics; semiconductors; electronic equipment and  
3 instrumentation; radio frequency, microwave, and millimeter  
4 electronics; optical and optic-electrical devices; and data and digital  
5 communications and imaging devices.

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

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

20 (9) "Investment project" means an investment in qualified buildings  
21 or qualified machinery and equipment, including labor and services  
22 rendered in the planning, installation, and construction or improvement  
23 of the project.

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

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

33 (12) "Qualified buildings" means construction of new structures,  
34 and expansion or renovation of existing structures with costs in excess  
35 of twenty-five percent of the true and fair value of the structures  
36 prior to improvement, where the structures are used for pilot scale  
37 manufacturing or qualified research and development, including plant  
38 offices and other facilities that are an essential or an integral part  
39 of a structure used for pilot scale manufacturing or qualified research

1 and development. If a building is used partly for pilot scale  
2 manufacturing or qualified research and development, and partly for  
3 other purposes, the applicable tax deferral shall be determined by  
4 apportionment of the costs of construction under rules adopted by the  
5 department.

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

24 (14) "Qualified research and development" means research and  
25 development performed within this state in the fields of advanced  
26 computing, advanced materials, biotechnology, electronic device  
27 technology, and environmental technology.

28 (15) "Recipient" means a person receiving a tax deferral under this  
29 chapter.

30 (16) "Research and development" means activities performed to  
31 discover technological information, and technical and nonroutine  
32 activities concerned with translating technological information into  
33 new or improved products, processes, techniques, formulas, inventions,  
34 or software. The term includes exploration of a new use for an  
35 existing drug, device, or biological product if the new use requires  
36 separate licensing by the federal food and drug administration under  
37 chapter 21, C.F.R., as amended. The term does not include adaptation  
38 or duplication of existing products where the products are not  
39 substantially improved by application of the technology, nor does the

1 term include surveys and studies, social science and humanities  
2 research, market research or testing, quality control, sale promotion  
3 and service, computer software developed for internal use, and research  
4 in areas such as improved style, taste, and seasonal design.

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

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

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

17	Year in which use occurs	% of deferred taxes due
18	1	100%
19	2	87.5%
20	3	75%
21	4	62.5%
22	5	50%
23	6	37.5%
24	7	25%
25	8	12.5%

26 The department shall assess interest at the rate provided for  
27 delinquent taxes, but not penalties, retroactively to the date of  
28 deferral.

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

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

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

33 NEW SECTION. **Sec. 14.** The department of revenue may make and  
34 publish rules and regulations necessary to implement this act.

1        NEW SECTION.    **Sec. 15.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and shall take  
4    effect July 1, 1995.

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