

2 **SSB 5201** - S AMD - 200

3 By Senators Hargrove, Rinehart, Gaspard, Snyder, Owen, Bauer,
4 Quigley and Spanel

5 ADOPTED 3/14/95

6 On page 10, after line 14, strike the remainder of the bill and
7 insert the following:

8 "**Sec. 8.** RCW 82.60.065 and 1994 1st sp.s. c 1 s 6 are each amended
9 to read as follows:

10 Except as provided in RCW 82.60.070:

11 (1) Taxes deferred under this chapter on the sale or use of labor
12 that is directly used in the construction of an investment project for
13 which a deferral has been granted under this chapter after June 11,
14 1986, and prior to July 1, 1994, need not be repaid.

15 (2) Taxes deferred under this chapter on an investment project for
16 which a deferral has been granted under this chapter after June 30,
17 1994, need not be repaid.

18 (3) Taxes deferred under this chapter need not be repaid on
19 machinery and equipment for lumber and wood products industries, and
20 sales of or charges made for labor and services, of the type which
21 qualifies for exemption under section 2 or 3 of this act to the extent
22 the taxes have not been repaid before the effective date of this act.

23 **Sec. 9.** RCW 82.60.070 and 1994 1st sp.s. c 1 s 5 are each amended
24 to read as follows:

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

1 amount of deferred taxes outstanding to be immediately assessed and
2 payable.

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

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

19 (4) 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 after June 30, 1994, has
22 been operationally complete for three years and has failed to create
23 the required number of qualified employment positions, the amount of
24 taxes not eligible for deferral shall be immediately due. The
25 department shall assess interest at the rate provided for delinquent
26 excise taxes, but not penalties, retroactively to the date of deferral.

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

36 (6) Notwithstanding any other subsection of this section, deferred
37 taxes need not be repaid on machinery and equipment for lumber and wood
38 products industries, and sales of or charges made for labor and
39 services, of the type which qualifies for exemption under section 2 or

1 3 of this act to the extent the taxes have not been repaid before the
2 effective date of this act.

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

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

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

10 **Sec. 10.** RCW 82.61.010 and 1994 c 125 s 1 are each amended to read
11 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) "Person" has the meaning given in RCW 82.04.030.

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

18 (4) "Eligible investment project" means:

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

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

30 (c) Acquisition of all new or used machinery, equipment, or other
31 personal property for use in the production or casting of aluminum at
32 an aluminum smelter or at facilities related to an aluminum smelter, if
33 the plant was in operation prior to 1975 and has ceased operations or
34 is in imminent danger of ceasing operations for economic reasons, as
35 determined by the department, and if the person applying for a deferral
36 (i) has consulted with any collective bargaining unit that represented
37 employees of the plant pursuant to a collective bargaining agreement
38 that was in effect either immediately prior to the time the plant

1 ceased operations or during the period when the plant was in imminent
2 danger of ceasing operations, on the proposed operation of the plant
3 and on the terms and conditions of employment for wage and salaried
4 employees and (ii) has obtained a written concurrence from the
5 bargaining unit on the decision to apply for a deferral under this
6 chapter; or

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

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

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

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

38 (8) "Machinery and equipment" means all industrial and research
39 fixtures, equipment, and support facilities that are an integral and

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

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

16 (10) "Recipient" means a person receiving a tax deferral under this
17 chapter.

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

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

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

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

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

27 (2) RCW 82.61.040 and 1993 sp.s. c 25 s 408, 1988 c 41 s 2, 1986 c
28 116 s 10, & 1985 ex.s. c 2 s 8.

29 **Sec. 12.** RCW 82.63.010 and 1994 sp.s. c 5 s 3 are each amended to
30 read as follows:

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

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

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

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

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

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

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

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

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

36 (9) "Investment project" means an investment in qualified buildings
37 or qualified machinery and equipment, including labor and services
38 rendered in the planning, installation, and construction or improvement
39 of the project.

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

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

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

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

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

5 (15) "Recipient" means a person receiving a tax deferral under this
6 chapter.

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

21 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.63 RCW
22 to read as follows:

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

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

33	Year in which use occurs	% of deferred taxes due
34	1	100%
35	2	87.5%
36	3	75%
37	4	62.5%
38	5	50%

1	6	37.5%
2	7	25%
3	8	12.5%

4 The department shall assess interest at the rate provided for
5 delinquent taxes, but not penalties, retroactively to the date of
6 deferral.

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

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

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

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

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

18 NEW SECTION. **Sec. 15.** The legislative fiscal committees shall
19 report to the legislature by December 1, 1999, on the economic impacts
20 of the manufacturers' tax exemption. This report shall analyze
21 employment and other relevant economic data from before and after the
22 enactment of the tax exemptions authorized under this act and shall
23 measure the effect on the creation or retention of family wage jobs and
24 diversification of the state's economy. Analytic techniques may
25 include, but not be limited to, comparisons of Washington to other
26 states that did not enact business tax changes, comparisons across
27 Washington counties based on usage of the tax exemptions, and
28 comparisons across similar firms based on their use of the tax
29 exemptions. In performing the analysis, the legislative fiscal
30 committees shall consult with business and labor interests. The
31 department or revenue, the employment security department, and other
32 agencies shall provide to the legislative fiscal committees such data
33 as the legislative fiscal committees may request in performing the
34 analysis required under this section.

35 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
36 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.

3 **SSB 5201** - S Amd - 200

4 By Senators Hargrove, Rinehart, Gaspard, Snyder, Owen, Bauer,
5 Quigley and Spanel

6 ADOPTED 3/14/95

7 On page 1, line 4 of the title, before "82.60.070" insert
8 "82.60.065,"

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