

2 **HB 2906** - H AMD 1007

3 By Representative Morris

4

5 On page 3, after line 29, insert the following:

6 "NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
7 to read as follows:

8 (1) The definitions in this subsection apply to this section,
9 sections 4 and 5 of this act, RCW 82.62.030, and sections 10 through 17
10 of this act, unless the context clearly requires otherwise.

11 (a) "Business" means the person applying for the tax deferral,
12 credit, or exemption.

13 (b) "Construction" means the construction of a manufacturing
14 operation complex and includes labor and services rendered in respect
15 to construction. "Construction" ends when a project is completed as
16 determined under subsection (2)(c) of this section.

17 (c) "Distressed county" means a county in which the average level
18 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.

21 (d) "Employment position" means a position in which a permanent
22 full-time employee is employed in a project during the entire tax year.
23 "The entire tax year" means the full-time position is filled for a
24 period of twelve consecutive months. "Full-time" means at least
25 thirty-five hours a week.

26 (e) "Equipping and operating" means the acquisition of tangible
27 personal property for use at the manufacturing operation complex, and
28 includes labor and services rendered in respect to the installation of
29 tangible personal property.

30 (f) "Finished product" means an article, substance, or commodity
31 that is manufactured at and shipped from the manufacturing operation
32 complex.

33 (g) "Manufacturing operation complex" means the buildings,
34 structures, and improvements located at the site where the
35 manufacturing activity occurs. The complex includes the buildings,
36 structures, and improvements used to receive, store, and ship raw

1 materials and finished products as well as buildings, structures, and
2 improvements used for the manufacturing production line. In addition,
3 the term includes all administrative offices, employee support
4 facilities, and production support facilities located at the site. The
5 manufacturing operation complex does not include buildings, structures,
6 and improvements located off of the site.

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

8 (i) "Project" means the site preparation, construction, and
9 equipping and operating of a manufacturing operation complex.

10 (j) "Raw material" means the ingredients, components, substances,
11 articles, or other tangible personal property that is received at the
12 manufacturing operation complex for use as ingredients or components of
13 the finished product.

14 (k) "Site" means a discrete geographical location.

15 (l) "Site preparation" means demolition of existing improvements,
16 environmental remediation, earth moving, land clearing, site
17 excavation, and shoring, and includes labor and services rendered in
18 respect to site preparation.

19 (2) As a condition to receiving initial approval and as a condition
20 of continuing eligibility, the following criteria must be met:

21 (a) The project must be located in a distressed county and must be
22 owned and operated by a person who meets the definition of
23 "manufacturer" as defined in RCW 82.04.110;

24 (b) The business must commit to an investment, by the time of
25 completion of the project, in land, structures, and equipment, the
26 value of which must be at least four percent of the total of the
27 equalized assessed value in the county in which the project is located.
28 The total equalized assessed value in the county is as published
29 annually by the department in accordance with RCW 84.48.080.
30 Continuing eligibility is conditioned on this investment having
31 actually occurred;

32 (c)(i) The business must commit to and must create a minimum of
33 twenty new employment positions at the project within two years of
34 completion of the project.

35 (ii) The business must commit to and create one new employment
36 position for each two million dollars invested in the project within
37 two years of completion of the project. The twenty minimum positions
38 in (c)(i) of this subsection are part of and not in addition to the
39 positions required to meet the investment to job ratio.

1 (iii) The individuals in the new employment positions must be the
2 employees of the business and must not have been relocated from other
3 locations of the business within this state. Completion of the project
4 is deemed to have occurred when the project is capable of operating and
5 producing finished products. The department of community, trade, and
6 economic development shall determine when the project is complete;

7 (d) The business must commit to and must pay an average wage of at
8 least one hundred fifty percent of the average wage in the county. The
9 employment security department shall determine the average wage in the
10 county and shall report this amount to the department of community,
11 trade, and economic development; and

12 (e) The business must remain operational for a fifteen-year period
13 after the project is completed. "Operational" means that the level of
14 employment at the manufacturing operation complex must not drop below
15 the total employment positions required under (c) of this subsection.

16 (3)(a) The department of community, trade, and economic development
17 shall determine the eligibility of a business and certify eligibility
18 to the department of revenue.

19 (b) Approval of the project by a public vote of the governing body
20 of the county or city in which the project is located is a precondition
21 to deferral certification by the department of revenue. If the county
22 or city approves the project, the county or city shall send a written
23 notification of the approval to the department of revenue. If the
24 project is in two jurisdictions, both jurisdictions must approve the
25 project.

26 (c) When both of the notices under (a) and (b) of this subsection
27 are received, the department of revenue shall issue a sales and use tax
28 deferral certificate for use under sections 4 and 5 of this act.

29 (4) In addition to the initial certification under subsection (3)
30 of this section, the project must be reviewed by the department of
31 community, trade, and economic development each year for continuing
32 eligibility. The business shall provide an annual report to the
33 department of community, trade, and economic development, in a form as
34 required by the department, of its status relative to the eligibility
35 criteria under subsection (2) of this section. The department of
36 community, trade, and economic development shall review the annual
37 report and determine whether the project continues to meet the
38 eligibility criteria. The department of community, trade, and economic
39 development shall provide a written notice of this determination to the

1 business and to the department of revenue. Annual reapproval by the
2 county or city in which the project is located is not required. If the
3 project fails to meet the eligibility criteria the amount of taxes
4 deferred under sections 4 and 5 of this act are immediately due.

5 (5) Taxes deferred under sections 4 and 5 of this act need not be
6 repaid if the project maintains its eligibility criteria for a fifteen-
7 year period. The fifteen-year period begins when the deferral
8 certificate is sent under subsection (3)(c) of this section by the
9 department of revenue to the business.

10 (6) Application for the deferral under sections 4 and 5 of this act
11 may not be accepted before the effective date of this section or after
12 June 30, 2003.

13 (7) The employment security department shall provide such data to
14 the department of revenue and the department of community, trade, and
15 economic development as is necessary to administer this section wage
16 data shall be updated annually to reflect current state and county
17 conditions.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW
19 to read as follows:

20 (1) A person that has received a certification from the department
21 under section 3(3)(c) of this act may use that certificate for deferral
22 of the state share of taxes due under this chapter on the site
23 preparation, construction, and equipping and operating of the project.

24 (2) The certificate is not valid for sales that occurred before
25 certification by the department. After the project is determined to be
26 complete under section 3(2)(c) of this act, the certificate is limited
27 to taxes related to equipping and operating of the project.

28 (3)(a) The certificate may be used for fifteen years after its
29 issuance.

30 (b) The deferral under this section is conditioned on the business
31 remaining eligible under section 3 of this act. If the project fails
32 to meet the eligibility criteria, the amount of taxes deferred under
33 this section are immediately due. The department shall assess interest
34 at the rate provided for delinquent excise taxes, but not penalties,
35 retroactively to the date of deferral.

36 (4) The buyer must keep such records as the department requires for
37 audit and verification purposes.

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

3 (1) A person that has received a certification from the department
4 under section 3(3)(c) of this act may use that certificate for deferral
5 of the state share of taxes due under this chapter on the site
6 preparation, construction, and equipping and operating of the project.

7 (2) The certificate is not valid for tax due on use that occurred
8 before certification by the department. After the project is
9 determined to be complete under section 3(2)(c) of this act, the
10 certificate is limited to tax due on use of tangible personal property
11 related to equipping and operating of the project.

12 (3)(a) The certificate may be used for fifteen years after its
13 issuance.

14 (b) The deferral under this section is conditioned on the business
15 remaining eligible under section 3 of this act. If the project fails
16 to meet the eligibility criteria, the amount of taxes deferred under
17 this section are immediately due. The department shall assess interest
18 at the rate provided for delinquent excise taxes, but not penalties,
19 retroactively to the date of deferral.

20 (4) The buyer must keep such records as the department requires for
21 audit and verification purposes.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.14 RCW
23 to read as follows:

24 The deferral under sections 4 and 5 of this act is for the state
25 portion of the sales and use tax and does not extend to the tax imposed
26 in this chapter.

27 **Sec. 7.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to read
28 as follows:

29 Cities that operate transit systems, county transportation
30 authorities, metropolitan municipal corporations, public transportation
31 benefit areas, and regional transit authorities may submit an
32 authorizing proposition to the voters and if approved by a majority of
33 persons voting, fix and impose a sales and use tax in accordance with
34 the terms of this chapter, solely for the purpose of providing high
35 capacity transportation service.

36 The tax authorized pursuant to this section shall be in addition to
37 the tax authorized by RCW 82.14.030 and shall be collected from those

1 persons who are taxable by the state pursuant to chapters 82.08 and
2 82.12 RCW upon the occurrence of any taxable event within the taxing
3 district. The maximum rate of such tax shall be approved by the voters
4 and shall not exceed one percent of the selling price (in the case of
5 a sales tax) or value of the article used (in the case of a use tax).
6 The maximum rate of such tax that may be imposed shall not exceed
7 nine-tenths of one percent in any county that imposes a tax under RCW
8 82.14.340, or within a regional transit authority if any county within
9 the authority imposes a tax under RCW 82.14.340. The exemptions in RCW
10 82.08.820 and 82.12.820 are for the state portion of the sales and use
11 tax and do not extend to the tax authorized in this section.

12 The deferral in sections 4 and 5 of this act is for the state
13 portion of the sales tax and does not extend to the tax imposed in this
14 chapter.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.32 RCW
16 to read as follows:

17 The department of revenue may develop and institute a tax reporting
18 method whereby the taxpayer uses deductions, credits, or other
19 accounting techniques, as directed by the department, to allow the
20 department to administer, and the taxpayer to report, the deferral in
21 sections 4 and 5 of this act simply and efficiently. Taxpayers who are
22 entitled to this deferral and sellers who receive deferral certificates
23 from buyers shall keep their records in a form and manner as directed
24 by the department so that the department can distinguish between
25 taxable and exempt transactions.

26 **Sec. 9.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to read
27 as follows:

28 (1) A person shall be allowed a credit against the tax due under
29 chapter 82.04 RCW as provided in this section. For an application
30 approved before January 1, 1996, the credit shall equal one thousand
31 dollars for each qualified employment position directly created in an
32 eligible business project. For an application approved on or after
33 January 1, 1996, the credit shall equal two thousand dollars for each
34 qualified employment position directly created in an eligible business
35 project. For an application approved on or after July 1, 1997, the
36 credit shall equal four thousand dollars for each qualified employment
37 position with wages and benefits greater than forty thousand dollars

1 annually that is directly created in an eligible business. For an
2 application approved on or after July 1, 1997, the credit shall equal
3 two thousand dollars for each qualified employment position with wages
4 and benefits less than or equal to forty thousand dollars annually that
5 is directly created in an eligible business.

6 (2) The department shall keep a running total of all credits
7 granted under this chapter during each fiscal year. The department
8 shall not allow any credits which would cause the tabulation to exceed
9 five million five hundred thousand dollars in fiscal year 1998 or 1999
10 or seven million five hundred thousand dollars in any fiscal year
11 thereafter. If all or part of an application for credit is disallowed
12 under this subsection, the disallowed portion shall be carried over for
13 approval the next fiscal year. However, the applicant's carryover into
14 the next fiscal year is only permitted if the tabulation for the next
15 fiscal year does not exceed the cap for that fiscal year as of the date
16 on which the department has disallowed the application.

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

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

21 (5) A business that has received certification from the department
22 of revenue under section 3 of this act is eligible for an annual credit
23 of four thousand dollars for each of the positions used to establish
24 project eligibility. Positions created in excess of those required to
25 maintain eligibility are also eligible for the credit under this
26 subsection. The business may apply for the credit once the project is
27 complete, as determined in section 3 of this act. The business may
28 apply each of the successive seven years following its initial
29 application under this subsection and shall receive the credit if the
30 continuing employment requirements of section 3 of this act are met.
31 The credits granted under this subsection do not affect the caps under
32 subsection (2) of this section and the fifteen percent requirement
33 under RCW 82.62.010. Application for the credit under this subsection
34 may not be accepted before the effective date of this section.

35 NEW SECTION. Sec. 10. (1) All real and personal property
36 belonging to a business and used in connection with a project that
37 qualifies under this chapter is exempt from ad valorem property
38 taxation for fifteen successive years from completion of construction

1 and certification of the project, as determined under section 3 of this
2 act.

3 (2) The exemption does not include real or personal property
4 acquired or constructed prior to the approval of the application
5 prescribed in this chapter. The exemption provided by this chapter is
6 in addition to any other incentives, tax credits, or grants provided by
7 law.

8 (3) The definitions in section 3 of this act apply to this chapter,
9 where applicable.

10 NEW SECTION. **Sec. 11.** A person making application for exemption
11 under this chapter must meet the requirements of section 3 of this act
12 and must enter into a contract approved by the department and the
13 governing body or bodies of the city or county in which the project is
14 located. In the contract the applicant must agree to the requirements
15 of section 3 of this act and this chapter. The department of revenue
16 may not accept any application for exemption under this chapter after
17 June 30, 2003.

18 NEW SECTION. **Sec. 12.** An applicant seeking a tax exemption under
19 this chapter must complete the following procedures:

20 (1) The applicant shall apply to the department on forms prepared
21 by the department. The application for exemption must contain the
22 following:

23 (a) A description of the manner in which the applicant intends to
24 proceed with acquisition and construction of the project, together with
25 proposed time frames for accomplishing the requirements of section 3 of
26 this act and this chapter; and

27 (b) A statement that the applicant is aware of the potential tax
28 liability that will be imposed if the property ceases to be eligible
29 for the exemption provided under this chapter.

30 (2) The applicant must verify the application for exemption by oath
31 or affirmation.

32 (3) The department may permit the applicant to revise an
33 application for exemption before final action on the application is
34 taken by the department.

35 NEW SECTION. **Sec. 13.** The department may approve the application
36 for exemption filed under this chapter if it finds that:

1 (1) The proposed project is or will be, at the time of completion,
2 in conformance with all applicable local government regulations in
3 effect at the time the application for exemption is approved;

4 (2) The applicant has complied with all requirements under this
5 chapter;

6 (3) The site of the project is located in a distressed county, as
7 defined by section 3 of this act; and

8 (4) The governing body of the county or city in which the project
9 is located has by a public vote approved the project and has sent a
10 written notification of the approval to the department.

11 NEW SECTION. **Sec. 14.** (1) The department shall approve or deny an
12 application for exemption filed under this chapter within sixty days
13 after it is received, unless in the discretion of the department
14 additional time is necessary in order to make a decision.

15 (2) If the application for exemption is approved, the department
16 shall issue the applicant a conditional certificate of tax exemption.
17 The certificate must contain a statement by a duly authorized
18 administrative official of the department that the applicant has
19 complied with the requirements of this chapter.

20 (3) If the application for exemption is denied by the department,
21 the deciding administrative official shall state in writing the reasons
22 for the denial and mail the notice to the applicant at the applicant's
23 last known address within ten days of the denial.

24 (4) Upon receiving a denial of the application for a property tax
25 exemption under this chapter, the applicant may appeal the denial to
26 the board of tax appeals in accordance with the rules of practice and
27 procedure of the board. This appeal must be submitted within thirty
28 days of the date the notice is received. If the exemption is denied,
29 the sixty-day time period for approving the application for exemption
30 regarding the project must be extended to the extent necessary to
31 accommodate the appeal process.

32 NEW SECTION. **Sec. 15.** (1) Upon completion of construction of a
33 project for which an application for exemption under this chapter has
34 been approved, the owner of the eligible business shall file with the
35 department the following:

36 (a) A statement of the amount of expenditures for land, structures,
37 machinery, and equipment made with respect to the project;

1 (b) A description of the work that has been completed and a
2 statement that the owner's property qualifies the property for
3 exemption under this chapter; and

4 (c) A statement that the work has been completed within two years
5 of the issuance of the conditional certificate of tax exemption.

6 (2) Within thirty days of the date the statements required under
7 subsection (1) of this section are received, the authorized
8 representative of the department shall determine whether the work
9 completed is consistent with the application for exemption and the
10 contract approved by the legislative authority of the local taxing
11 districts and is qualified for exemption under this chapter. The
12 department shall also determine which completed improvements
13 specifically meet the requirements and required findings.

14 (3) The department shall file the certificate of tax exemption with
15 the county assessor within ten days of approval if:

16 (a) The construction is completed within two years of the date the
17 conditional certificate of tax exemption was issued or within an
18 authorized extension of this time limit; and

19 (b) The authorized representative of the department determines that
20 improvements were constructed consistent with the application for
21 exemption and other applicable requirements and the applicant's
22 property is qualified for exemption under this chapter.

23 (4) The authorized representative of the department shall notify
24 the applicant that a certificate of tax exemption will not be issued if
25 the representative determines that:

26 (a) The construction was not completed within two years of the
27 approval date or within any authorized extension of the time limit;

28 (b) The improvements were not constructed consistent with the
29 application for exemption or other applicable requirements; or

30 (c) The applicant's property is otherwise not qualified for
31 exemption under this chapter.

32 (5) If the authorized representative of the department finds that
33 the project was not completed within the required time period is due to
34 circumstances beyond the control of the applicant and that the
35 applicant has been acting and could reasonably be expected to act in
36 good faith and with due diligence, the department may extend the
37 deadline for completion of the project for a period not to exceed
38 twenty-four consecutive months.

1 (6) The decision by the deciding officer that an owner of an
2 eligible business is not entitled to a certificate of tax exemption may
3 be appealed to the board of tax appeals in accordance with the rules of
4 practice and procedure of the board.

5 NEW SECTION. **Sec. 16.** (1) Within thirty days of the anniversary
6 of the date the certificate of tax exemption was issued and each year
7 thereafter for a period of fifteen years, the owner of the eligible
8 business shall file with a designated representative of the department
9 of community, trade, and economic development an annual report
10 indicating the following:

11 (a) A certification by the owner that the use of the property has
12 not changed since the date the certificate was approved by the
13 department; and

14 (b) A description of changes or improvements made after the
15 certificate of tax exemption was issued.

16 (2) The department of community, trade, and economic development
17 shall annually determine whether the business meets the requirements of
18 this chapter and shall annually report this determination to the
19 department of revenue.

20 NEW SECTION. **Sec. 17.** (1) Land, structures, and machinery and
21 equipment that have been exempted under this chapter shall continue to
22 be exempt if not converted to another use for at least fifteen years
23 from the date of issuance of the certificate of tax exemption. If the
24 owner intends to convert the development to another use, the owner must
25 notify the assessor within sixty days of the change in use. If, after
26 a certificate of tax exemption has been filed with the county assessor,
27 the assessor discovers that the use of a portion of the property has
28 changed or will be changed to a use that no longer meets the
29 requirements as previously approved or agreed upon by contract between
30 the department and the owner and that the eligible business no longer
31 qualifies for the exemption, the tax exemption must be canceled and the
32 following must occur:

33 (a) Additional property tax must be imposed upon the property in
34 the amount that would normally be imposed, plus a penalty amounting to
35 twenty percent of the additional tax. This additional tax is
36 calculated based upon the difference between the property tax paid and
37 the amount of property tax otherwise due and payable had the property

1 not been granted an exemption. The tax, together with penalty and
2 interest, is due in accordance with RCW 84.56.020 the year following
3 the year the property no longer qualifies for exemption;

4 (b) The tax must include interest upon the amount of additional tax
5 at the same statutory rate charged on delinquent property taxes from
6 the dates on which the additional tax could have been paid without
7 penalty if the property had been assessed at a value without regard to
8 this chapter; and

9 (c) An additional tax unpaid on its due date is delinquent. From
10 the date of delinquency until the additional tax and penalty are paid,
11 interest must be charged at the same rate applied by law to delinquent
12 ad valorem property taxes. The additional tax owed together with
13 interest and penalty become a lien on the land and attach at the time
14 the property or portion of the property no longer meets applicable
15 requirement. The lien has priority to and must be fully paid and
16 satisfied before a recognizance, mortgage, judgment, debt, obligation,
17 or responsibility to or with which the land may become charged or
18 liable. The lien may be foreclosed upon expiration of the same period
19 after delinquency and in the same manner provided by law for
20 foreclosure of liens for delinquent real or personal property taxes.

21 (2) When a determination has been made that a tax exemption is to
22 be canceled for a reason stated in this section, the department shall
23 notify the owner of the property, shown by the tax rolls, by mail that
24 the exemption will be canceled. Upon receiving the notice that the
25 exemption is to be canceled, the owner may appeal the cancellation to
26 the board of tax appeals in accordance with the rules of practice and
27 procedures of the board. This appeal must be submitted within thirty
28 days of the date the notice of cancellation is received and must
29 specify the factual and legal basis on which the determination of
30 cancellation is alleged to be erroneous.

31 (3) Upon receiving notice from the department or its authorized
32 representative that an exemption has been canceled, the county
33 officials having possession of the assessment and tax rolls shall
34 correct the rolls and collect additional taxes, interest, and penalty
35 in accordance with this section.

36 NEW SECTION. Sec. 18. A new section is added to chapter 82.04 RCW
37 to read as follows:

38 (1) As used in this section:

1 (a) "Board" means the community economic revitalization board under
2 chapter 43.160 RCW;

3 (b) "Private-sector business" or "business" means "person" as
4 defined in RCW 82.04.030. "Private-sector business" does not include
5 a public agency. "Public agency" means the state or its agencies,
6 instrumentalities, or political subdivisions, or the United States or
7 any instrumentality thereof, or an Indian tribe or nation; and

8 (c) "Public facilities" means bridges, roads, domestic and
9 industrial water, sanitary sewer, storm sewer, railroad, electricity,
10 natural gas, buildings or structures, and port facilities, in the state
11 of Washington.

12 (2) A person shall be allowed a credit against tax due under this
13 chapter or chapter 82.16 RCW as provided in this section. The credit
14 shall equal fifty cents for each dollar of private funds spent on
15 qualifying public facilities. A person may not receive credit for
16 funds spent by another person. Eligible spending is limited to
17 construction, reconstruction, or improvement of the public facility,
18 and includes rights of way and real property acquisition, engineering
19 and design work, environmental assessment and mitigation, and materials
20 acquisition.

21 (3) The department, subject to the limitations of subsection (4) of
22 this section, shall approve applications for tax credits upon
23 occurrence of the following:

24 (a) A written certification is submitted by the board to the
25 department, stating the applicant has been approved for a loan or grant
26 under chapter 43.160 RCW. The tax credit applicant shall provide a
27 written request to the board, requesting the board to provide such
28 certification to the department;

29 (b) A written agreement is submitted to the department before the
30 start of the public facility project, signed by the public agency
31 responsible for the public facility and the business spending money on
32 the public facility, establishing the financial obligations of the
33 business and stating that the public facility is to be owned and
34 controlled by the public agency;

35 (c) If the facility will be owned by the business until completion,
36 a written agreement is submitted to the department providing a
37 mechanism for transfer of ownership of the facility to the public
38 agency upon completion of the project; and

1 (d) The business, in consultation with the public agency, provides
2 a letter to the department establishing that the public facility will
3 enable the business to create, retain, or expand jobs. The business
4 making the expenditures must be the same business upon which the job
5 criteria is based. A business may not use the jobs upon which an
6 earlier project was based to justify additional projects for which the
7 business is applying for tax credits.

8 (4)(a) Tax credits are available on a first-come basis, with
9 priority based on the date an application is received by the
10 department. Upon completion of a public facility, as determined by the
11 department, the department shall certify the business as eligible for
12 tax credits under this section. An applicant is not eligible for tax
13 credits under this section in excess of the amount of tax that would
14 otherwise be due under this chapter. Approved credit may be carried
15 over one calendar year after the year in which the credit is approved.
16 Any unused credit remaining after the one-year carry-over period has
17 elapsed expires. Refunds shall not be given in place of credits.

18 (b) The department shall keep a running total of all credits
19 approved. The sum total of credits granted under this section and
20 section 19 of this act shall be no more than five million dollars of
21 credits each fiscal year. If the amount requested for a credit in an
22 application will cause the cap to be exceeded, the department shall
23 give a partial approval of the project, equal to the amount of
24 remaining credit available for the fiscal year.

25 (c) The amount of credit taken is not confidential or subject to
26 RCW 82.32.330, and is disclosable by the department as a public record.

27 (5) Investments in a public facility do not give the private-sector
28 business a right or privilege, or any other benefit in the public
29 facility.

30 (6) An application under this section may not be approved after
31 June 30, 2005.

32 (7) Tax credits shall not be granted for spending that occurred
33 before the effective date of this section. Applicants are not eligible
34 based on a loan or grant approved before the effective date of this
35 section.

36 (8) If a person has used a credit granted under this section
37 against tax due under chapter 82.16 RCW the person may not use the same
38 credit for tax due under this chapter.

1 (9) The tax credit program under this section and section 19 of
2 this act is limited to expenditures for public facilities located in
3 distressed counties. "Distressed county" means a county in which the
4 average level of unemployment for the three years before the year in
5 which an application is filed under this section exceeds the average
6 state unemployment for those years by twenty percent.

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

9 The tax credit program under section 18 of this act is available to
10 persons for tax due under this chapter. If a person has used a credit
11 granted under this section against tax due under chapter 82.04 RCW the
12 person may not use the same credit for tax due under this chapter.

13 NEW SECTION. **Sec. 20.** It is the intent of the legislature to
14 promote the creation and the retention of jobs. To that end section
15 21, chapter . . . , Laws of 1998 (section 21 of this act) allows
16 counties to provide public facilities that will attract and retain
17 businesses, thereby creating and maintaining jobs.

18 **Sec. 21.** RCW 82.14.370 and 1997 c 366 s 3 are each amended to read
19 as follows:

20 (1) The legislative authority of a distressed county may impose a
21 sales and use tax in accordance with the terms of this chapter. The
22 tax is in addition to other taxes authorized by law and shall be
23 collected from those persons who are taxable by the state under
24 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event
25 within the county. The rate of tax shall not exceed (~~(0.04)~~) 0.12
26 percent of the selling price in the case of a sales tax or value of the
27 article used in the case of a use tax.

28 (2) The tax imposed under subsection (1) of this section shall be
29 deducted from the amount of tax otherwise required to be collected or
30 paid over to the department of revenue under chapter 82.08 or 82.12
31 RCW. The department of revenue shall perform the collection of such
32 taxes on behalf of the county at no cost to the county.

33 (3) Moneys collected under this section shall only be used for the
34 purpose of financing qualifying public facilities in rural counties.
35 The public facility must be listed as an item in the economic
36 development section of the comprehensive plan for those counties

1 planning under RCW 36.70A.040, or, for those counties who do not plan
2 under the growth management act, the public facility must be listed in
3 the county's capital facilities plan. For the purposes of this
4 section, "public facilities" means bridges, roads, domestic and
5 industrial water, sanitary sewer, storm sewer, railroad, electricity,
6 natural gas, buildings or structures, and port facilities, in the state
7 of Washington.

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

12 (5) For purposes of this section, "distressed county" means a
13 county in which the average level of unemployment for the three years
14 before the year in which a tax is first imposed under this section
15 exceeds the average state ((employment)) unemployment for those years
16 by twenty percent.

17 NEW SECTION. Sec. 22. Sections 10 through 17 of this act
18 constitute a new chapter in Title 84 RCW.

19 NEW SECTION. Sec. 23. A new section is added to chapter 82.04 RCW
20 to read as follows:

21 (1) This chapter shall not apply to the gross sales or the gross
22 income received by a new small business located in an eligible area as
23 defined in RCW 82.62.010.

24 (2) As used in this section:

25 (a) "New small business" means a business that: (i) Obtained or
26 was required to obtain a registration certificate under RCW 82.32.030
27 for the first time during the thirty-six months immediately preceding
28 the date in which an exemption is claimed under this section; and (ii)
29 for the business, the value of products, gross proceeds of sales, or
30 gross income of the business, from all business activities, is less
31 than five million dollars per year.

32 (b) For out-of-state entities first engaging in business in this
33 state, "new small business" means a person or company, as defined in
34 RCW 82.04.030, located outside this state that: (i) Obtained or was
35 required to obtain registration with any state, federal, or foreign
36 agency for the first time during the thirty-six months immediately
37 preceding the date in which an exemption is claimed under this section;

1 and (ii) for the business, the value of products, gross proceeds of
2 sales, or gross income of the business, from all business activities,
3 is less than five million dollars per year.

4 (c) "New small business" does not include:

5 (i) A business that has been restructured, reorganized, or
6 transferred, unless the majority of the activities to be conducted
7 after restructuring, reorganization, or transferral are significantly
8 different from the activities previously conducted;

9 (ii) A new branch location or other facility; or

10 (iii) A business that is substantially similar to a business
11 currently operated, or operated within the past twelve years, by the
12 same principals.

13 NEW SECTION. **Sec. 24.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

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

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

18 (3) "Eligible area" means an eligible area as defined in RCW
19 82.62.010.

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

21 (5) "Qualified employment position" means a new permanent full-time
22 employee employed by the recipient at a minimum wage of at least ten
23 dollars per hour during the entire year prior to the tax year. The
24 employee must have been a resident of the county in which the
25 employment occurs prior to employment. The employment position must be
26 a new position which adds to the total employment level of the
27 recipient and may not be the result of a prior staff reduction,
28 retirement, dismissal, or personnel turnover.

29 (6) "Tax year" means the calendar year in which taxes are due.

30 (7) "Recipient" means a person receiving tax credits under this
31 chapter.

32 NEW SECTION. **Sec. 25.** Application for tax credits under this
33 chapter must be made before the actual hiring of qualified employment
34 positions. The application shall be made to the department in a form
35 and manner prescribed by the department. The application shall contain
36 information regarding the location of the employee, the residency of
37 the employee, the applicant's average employment, if any, at the

1 facility for the prior year, estimated or actual wages of employees
2 related to the position, and other information required by the
3 department. The department shall rule on the application within sixty
4 days.

5 NEW SECTION. **Sec. 26.** (1) A person shall be allowed a credit
6 against the tax due under chapter 82.04 RCW as provided in this
7 section. The credit shall equal the wages paid for each qualified
8 employment position in the prior year. The amount of credit that may
9 be taken in the tax year is the lesser of the wages paid for the
10 qualified employment position or the recipients total tax liability.
11 Credits must be taken in the tax year and may not be carried over to
12 future years.

13 (2) No recipient may use the tax credits to decertify a union or to
14 displace existing jobs in any community in the state.

15 (3) No recipient may receive a tax credit on taxes which have not
16 been paid during the taxable year.

17 NEW SECTION. **Sec. 27.** (1) Each recipient shall submit a report to
18 the department on December 31st of each year. The report shall contain
19 information, as required by the department, from which the department
20 may determine whether the recipient is meeting the requirements of this
21 chapter. If the recipient fails to submit a report or submits an
22 inadequate report, the department may declare the amount of taxes for
23 which a credit has been used to be immediately assessed and payable.

24 (2) If, on the basis of a report under this section or other
25 information, the department finds that a recipient is not eligible for
26 tax credit under this chapter for reasons other than failure to create
27 a qualified employment position, the amount of taxes for which a credit
28 has been used for the project shall be immediately due.

29 (3) If, on the basis of a report under this section or other
30 information, the department finds that a recipient has failed to create
31 the qualified employment position, the department shall assess
32 interest, but not penalties, on the credited taxes for which a credit
33 has been used. The interest shall be assessed at the rate provided for
34 delinquent excise taxes, shall be assessed retroactively to the date of
35 the tax credit, and shall accrue until the taxes for which a credit has
36 been used are repaid.

1 NEW SECTION. **Sec. 28.** The employment security department shall
2 make, and certify to the department of revenue, all determinations of
3 employment and wages required under this chapter.

4 NEW SECTION. **Sec. 29.** Applications, reports, and any other
5 information received by the department under this chapter are not
6 confidential and are subject to disclosure.

7 NEW SECTION. **Sec. 30.** Sections 24 through 29 of this act
8 constitute a new chapter in Title 82 RCW.

9 NEW SECTION. **Sec. 31.** For the purposes of section 32 of this act,
10 it is the intent of the legislature to provide a tax incentive program
11 to encourage the hiring of dislocated workers in distressed areas by
12 allowing employers in distressed areas to take business and occupation
13 tax credits for expenses related to providing job training for newly
14 hired production employees in distressed areas.

15 NEW SECTION. **Sec. 32.** A new section is added to chapter 82.04 RCW
16 to read as follows:

17 (1) There may be credited against the tax imposed by this chapter,
18 the value of state-approved, employer-provided or sponsored job
19 training services designed to enhance the job-related performance of
20 newly hired production employees, for businesses located in eligible
21 areas as defined in RCW 82.62.010.

22 (2) The value of the state-approved, job training services provided
23 by the employer to the employee, without charge, shall be determined by
24 the allocation of the cost method using generally accepted accounting
25 standards.

26 (3) The credit allowed under this section shall be limited to an
27 amount equal to the value of the state-approved, job training services
28 determined under subsection (2) of this section. The credit may be
29 taken in the tax year following the provision of the job training
30 services.

31 (4) Prior to claiming the credit under this section, the business
32 must obtain approval of the proposed job training service from the
33 employment security department. The employer's request for approval
34 must include a description of the proposed job training service, how

1 the job training will enhance the employee's performance, and the cost
2 of the proposed job training.

3 (5) The employee being trained for which a training tax credit is
4 taken must remain on the payroll of the employer a minimum of twelve
5 months after the training. The employee must have been a resident of
6 the county in which the employer is located and not been employed at
7 the time of beginning employment with business.

8 (6) This section only applies to training in respect to eligible
9 business projects for which an application is approved on or after June
10 30, 1998.

11 (7) "Production employees" as used in this section refers to
12 nonmanagerial employees earning, or to earn as a result of the
13 training, a minimum of eight dollars per hour.

14 NEW SECTION. Sec. 33. A new section is added to chapter 43.31 RCW
15 to read as follows:

16 (1) There is established in the council under RCW 43.31.855 a grant
17 program to support business recruitment efforts. The purpose of the
18 program is to assist local associate development organizations in
19 business recruitment efforts by providing grants to assist in marketing
20 the area to businesses on a national and international basis.

21 (2) Applications for funding under this section must:

22 (a) Be submitted by either a local associate development
23 organization or a consortium of associate development organizations;

24 (b) Contain evidence of active participation in the development of
25 the business recruitment effort between local governments, the
26 community, and other local development organizations that serve the
27 region;

28 (c) Contain a description of the proposed project and how it will
29 assist the region in its business recruitment efforts; and

30 (d) Contain other information the director deems necessary.

31 (3) In making grants under this section, the department shall give
32 preference to applications based on the following criteria:

33 (a) The degree of leverage of other funds, including in-kind match,
34 committed to the project;

35 (b) The degree of community support for the proposed project; and

36 (c) The degree the proposed project is coordinated with existing
37 state or local business recruitment efforts.

1 (4) The funding of an activity under this section is not an
2 obligation of the state of Washington to provide ongoing funding in
3 future years.

4 (5) The director may establish, by rule, such other requirements as
5 the director may reasonably determine necessary and appropriate to
6 assure that the purpose of this section is satisfied.

7 NEW SECTION. **Sec. 34.** A new section is added to chapter 43.31 RCW
8 to read as follows:

9 (1) There is established in the council under RCW 43.31.855 a grant
10 program to support the development of local international marketing
11 efforts. The program shall assist businesses located in distressed
12 areas to market their products and services on an international basis
13 by providing grants to local economic development councils to assist in
14 developing international marketing efforts.

15 (2) Applications for funding under this section must:

16 (a) Be submitted by a local economic development council;

17 (b) Contain evidence of active participation in the development of
18 the application between local governments, the business community, and
19 other local economic development organizations in the area;

20 (c) Contain a description of the proposed project and how it will
21 assist the selected businesses in the distressed area market their
22 products and services on an international basis; and

23 (d) Contain other information the director deems necessary.

24 (3) In making awards under this section, the department shall:

25 (a) Not provide more than twenty-five percent of the funds
26 appropriated for the purposes of this section to any one county;

27 (b) Consider the degree of other funds, including in-kind match,
28 committed to the project;

29 (c) Consider the degree of community and business support for the
30 proposed project; and

31 (d) Consider the degree the proposed project is coordinated with
32 existing state and local economic development efforts in the county.

33 (4) The department is responsible for determining the scope of
34 services delivered under these contracts.

35 (5) Activities funded under this section may be considered for
36 funding in future years, but shall be considered under the terms and
37 conditions as new activities. Funding of an activity under this

1 section shall not constitute an obligation by the state of Washington
2 to provide ongoing funding.

3 (6) The director may establish, by rule, such other requirements as
4 the director may reasonably determine necessary and appropriate to
5 assure that the purpose of this section is satisfied.

6 (7) As used in this section, "distressed area" has the same meaning
7 as in RCW 43.165.010.

8 NEW SECTION. **Sec. 35.** (1) The sum of four hundred thousand
9 dollars, or as much thereof as may be necessary, is appropriated for
10 the fiscal year ending June 30, 1999, from the general fund to the
11 state rural development council for the purposes of section 33 of this
12 act.

13 (2) The sum of five hundred thousand dollars, or as much thereof as
14 may be necessary, is appropriated for the fiscal year ending June 30,
15 1999, from the general fund to the state rural development council for
16 the purposes of section 34 of this act.

17 NEW SECTION. **Sec. 36.** It is the intent of sections 37 through 40
18 of this act to provide for predictable and stable funding for tourism
19 development activities of the state of Washington by establishing
20 funding levels based on proven performance and return on state funds
21 invested in tourism development and to establish a tourism development
22 advisory committee.

23 NEW SECTION. **Sec. 37.** A new section is added to chapter 43.330
24 RCW to read as follows:

25 (1) The tourism development advisory committee is created within
26 the department. The committee shall have a total of fifteen members.
27 There shall be one member from each of the two largest political
28 caucuses in the house of representatives and senate appointed by the
29 speaker of the house of representatives and the president of the
30 senate, respectively. The remaining eleven members shall be appointed
31 by the director and shall represent the travel industry. When making
32 appointments, the director shall ensure to the greatest extent possible
33 that the industry representatives include all sectors of the travel
34 industry in Washington state and are diverse with respect to region of
35 the state, gender, and ethnicity.

1 (2) The tourism development advisory committee shall meet at such
2 times designated by the director but not less than twice per calendar
3 year. The committee shall review and comment on the tourism
4 development plan presented by the department and advise the director
5 concerning tourism activities the department should undertake.

6 (3) This section expires June 30, 2008.

7 NEW SECTION. **Sec. 38.** A new section is added to chapter 43.88 RCW
8 to read as follows:

9 (1) When developing a biennial budget for the tourism development
10 division of the department of community, trade, and economic
11 development, the request for funding submitted to the office of
12 financial management shall be calculated according to the formula in
13 section 39 of this act. The request shall be a specific designated
14 amount in the budget request for the department of community, trade,
15 and economic development.

16 (2) This section expires June 30, 2008.

17 NEW SECTION. **Sec. 39.** A new section is added to chapter 43.88 RCW
18 to read as follows:

19 (1) The budget amount designated in section 38(1) of this act is
20 the sum of the base amount and the growth component as calculated under
21 subsection (2) of this section.

22 (2) The director of the department of community, trade, and
23 economic development shall calculate the tourism development division
24 budget in consultation with the appropriate agencies in the following
25 manner:

26 (a) The base amount, beginning in the budget for the biennium
27 ending June 30, 2001, and for each subsequent biennium thereafter,
28 equals the previous year's biennial budget, including any supplemental
29 allocations and any growth component amounts from previous biennia.

30 (b) For the growth component, beginning in the budget for the
31 biennium ending June 30, 2001: (i) Compute the state retail sales tax
32 revenues for the target business categories for the calendar year two
33 years prior to the beginning of the biennium for which the budget
34 request will be made; (ii) compute the state retail sales tax revenues
35 for the target business categories for the calendar year four years
36 prior to the beginning of the biennium for which the budget request
37 will be made; (iii) calculate the percentage change in these two sales

1 tax revenue amounts; (iv) if the percentage exceeds six percent growth,
2 calculate the amount of sales tax revenue that represents the excess in
3 revenue growth greater than six percent; and (v) calculate the growth
4 component by dividing the excess revenue growth by two. The amount of
5 the growth component for any biennium shall not exceed two million
6 dollars per fiscal year for the biennium.

7 (3) As used in this section:

8 (a) "Target business categories" means businesses in standard
9 industrial classification codes 58 (eating and drinking), 70 (lodging),
10 7514 (auto rental), and 79 (recreation). If at any time the United
11 States office of management and budget or a successor agency should
12 change or replace the present standard industrial classification code
13 system, the department of community, trade, and economic development
14 shall use the code system issued by the office of management and budget
15 or its successor agency to determine codes corresponding to those
16 listed in this definition.

17 (b) "Retail sales" means the gross sales subject to the tax imposed
18 in chapter 82.08 RCW received by businesses identified in department of
19 revenue records by standard industrial classification codes 58, 70,
20 7514, and 79.

21 (4) This section expires June 30, 2008.

22 NEW SECTION. **Sec. 40.** A new section is added to chapter 43.330
23 RCW to read as follows:

24 (1) On or before June 30th of each fiscal year, the department
25 shall submit a report to the appropriate policy and fiscal committees
26 of the house of representatives and senate that describes the tourism
27 development program for the previous fiscal year and quantifies the
28 financial benefits to the state. The report must contain information
29 concerning targeted markets, benefits to different areas of the state,
30 return on the state's investment, and other relevant information
31 related to tourism development.

32 (2) This section expires June 30, 2008.

33 NEW SECTION. **Sec. 41.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 42.** This act takes effect July 1, 1998."

2 Correct the title.

3 EFFECT: Provides for: (1) Tax benefits for manufacturing projects
4 locating in distressed counties; (2) a credit against B&O taxes for
5 private funds spent on public facilities; (3) allowing distressed
6 counties additional sales taxes for economic development related public
7 facilities; (4) exempting new businesses located in distressed counties
8 from the B&O tax for 3 years; (5) a B&O tax credit for businesses
9 located in a distressed county that hires new employees for new
10 positions that result from that business' expansion; (6) a B&O tax
11 credit to encourage job training in distressed areas; (7) assisting
12 local development organizations in business recruitment efforts by
13 providing grants to assist in marketing the area to businesses on a
14 national and international basis; (8) grants to regional rural economic
15 development councils to encourage international investments in
16 distressed areas; and (9) providing for a stable funding mechanism for
17 the promotion of tourism.

--- END ---