

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2519

Chapter 106, Laws of 2000

(partial veto)

56th Legislature
2000 Regular Session

EXCISE TAX

EFFECTIVE DATE: 7/1/00

Passed by the House February 8, 2000
Yeas 97 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate February 29, 2000
Yeas 45 Nays 0

BRAD OWEN
President of the Senate

Approved March 24, 2000, with the
exception of section 4, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2519** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

CYNTHIA ZEHNDER
Chief Clerk

FILED

March 24, 2000 - 2:57 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2519

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By Representatives Lovick, Fortunato, Dunshee, Thomas, Haigh and Kenney; by request of Department of Revenue

Read first time 01/14/2000. Referred to Committee on Finance.

1 AN ACT Relating to simplifying the excise tax code through revising
2 terminology, correcting mistakes, streamlining procedures, and deleting
3 obsolete provisions; amending RCW 82.32.330, 82.14B.042, 82.14B.061,
4 82.49.010, 82.60.060, 82.60.080, 82.62.060, 82.60.049, 82.62.090,
5 82.63.045, 82.04.4456, and 82.04.4457; and providing an effective date.

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

7 **Sec. 1.** RCW 82.32.330 and 1998 c 234 s 1 are each amended to read
8 as follows:

9 (1) For purposes of this section:

10 (a) "Disclose" means to make known to any person in any manner
11 whatever a return or tax information;

12 (b) "Return" means a tax or information return or claim for refund
13 required by, or provided for or permitted under, the laws of this state
14 which is filed with the department of revenue by, on behalf of, or with
15 respect to a person, and any amendment or supplement thereto, including
16 supporting schedules, attachments, or lists that are supplemental to,
17 or part of, the return so filed;

18 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
19 nature, source, or amount of the taxpayer's income, payments, receipts,

1 deductions, exemptions, credits, assets, liabilities, net worth, tax
2 liability deficiencies, overassessments, or tax payments, whether taken
3 from the taxpayer's books and records or any other source, (iii)
4 whether the taxpayer's return was, is being, or will be examined or
5 subject to other investigation or processing, (iv) a part of a written
6 determination that is not designated as a precedent and disclosed
7 pursuant to RCW 82.32.410, or a background file document relating to a
8 written determination, and (v) other data received by, recorded by,
9 prepared by, furnished to, or collected by the department of revenue
10 with respect to the determination of the existence, or possible
11 existence, of liability, or the amount thereof, of a person under the
12 laws of this state for a tax, penalty, interest, fine, forfeiture, or
13 other imposition, or offense: PROVIDED, That data, material, or
14 documents that do not disclose information related to a specific or
15 identifiable taxpayer do not constitute tax information under this
16 section. Except as provided by RCW 82.32.410, nothing in this chapter
17 shall require any person possessing data, material, or documents made
18 confidential and privileged by this section to delete information from
19 such data, material, or documents so as to permit its disclosure;

20 (d) "State agency" means every Washington state office, department,
21 division, bureau, board, commission, or other state agency;

22 (e) "Taxpayer identity" means the taxpayer's name, address,
23 telephone number, registration number, or any combination thereof, or
24 any other information disclosing the identity of the taxpayer; and

25 (f) "Department" means the department of revenue or its officer,
26 agent, employee, or representative.

27 (2) Returns and tax information shall be confidential and
28 privileged, and except as authorized by this section, neither the
29 department of revenue nor any other person may disclose any return or
30 tax information.

31 (3) The foregoing, however, shall not prohibit the department of
32 revenue from:

33 (a) Disclosing such return or tax information in a civil or
34 criminal judicial proceeding or an administrative proceeding:

35 (i) In respect of any tax imposed under the laws of this state if
36 the taxpayer or its officer or other person liable under Title 82 RCW
37 is a party in the proceeding; or

1 (ii) In which the taxpayer about whom such return or tax
2 information is sought and another state agency are adverse parties in
3 the proceeding;

4 (b) Disclosing, subject to such requirements and conditions as the
5 director shall prescribe by rules adopted pursuant to chapter 34.05
6 RCW, such return or tax information regarding a taxpayer to such
7 taxpayer or to such person or persons as that taxpayer may designate in
8 a request for, or consent to, such disclosure, or to any other person,
9 at the taxpayer's request, to the extent necessary to comply with a
10 request for information or assistance made by the taxpayer to such
11 other person: PROVIDED, That tax information not received from the
12 taxpayer shall not be so disclosed if the director determines that such
13 disclosure would compromise any investigation or litigation by any
14 federal, state, or local government agency in connection with the civil
15 or criminal liability of the taxpayer or another person, or that such
16 disclosure would identify a confidential informant, or that such
17 disclosure is contrary to any agreement entered into by the department
18 that provides for the reciprocal exchange of information with other
19 government agencies which agreement requires confidentiality with
20 respect to such information unless such information is required to be
21 disclosed to the taxpayer by the order of any court;

22 (c) Disclosing the name of a taxpayer with a deficiency greater
23 than five thousand dollars and against whom a warrant under RCW
24 82.32.210 has been either issued or filed and remains outstanding for
25 a period of at least ten working days. The department shall not be
26 required to disclose any information under this subsection if a
27 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
28 a warrant that has not been filed; and (iii) has entered a deferred
29 payment arrangement with the department of revenue and is making
30 payments upon such deficiency that will fully satisfy the indebtedness
31 within twelve months;

32 (d) Disclosing the name of a taxpayer with a deficiency greater
33 than five thousand dollars and against whom a warrant under RCW
34 82.32.210 has been filed with a court of record and remains
35 outstanding;

36 (e) Publishing statistics so classified as to prevent the
37 identification of particular returns or reports or items thereof;

38 (f) Disclosing such return or tax information, for official
39 purposes only, to the governor or attorney general, or to any state

1 agency, or to any committee or subcommittee of the legislature dealing
2 with matters of taxation, revenue, trade, commerce, the control of
3 industry or the professions;

4 (g) Permitting the department of revenue's records to be audited
5 and examined by the proper state officer, his or her agents and
6 employees;

7 (h) Disclosing any such return or tax information to a peace
8 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for
9 official purposes. The disclosure may be made only in response to a
10 search warrant, subpoena, or other court order, unless the disclosure
11 is for the purpose of criminal tax enforcement. A peace officer or
12 county prosecuting attorney who receives the return or tax information
13 may disclose that return or tax information only for use in the
14 investigation and a related court proceeding, or in the court
15 proceeding for which the return or tax information originally was
16 sought;

17 (i) Disclosing any such return or tax information to the proper
18 officer of the internal revenue service of the United States, the
19 Canadian government or provincial governments of Canada, or to the
20 proper officer of the tax department of any state or city or town or
21 county, for official purposes, but only if the statutes of the United
22 States, Canada or its provincial governments, or of such other state or
23 city or town or county, as the case may be, grants substantially
24 similar privileges to the proper officers of this state;

25 (j) Disclosing any such return or tax information to the Department
26 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
27 Department of the Treasury, the Department of Defense, the United
28 States Customs Service, the Coast Guard of the United States, and the
29 United States Department of Transportation, or any authorized
30 representative thereof, for official purposes;

31 (k) Publishing or otherwise disclosing the text of a written
32 determination designated by the director as a precedent pursuant to RCW
33 82.32.410;

34 (l) Disclosing, in a manner that is not associated with other tax
35 information, the taxpayer name, entity type, business address, mailing
36 address, revenue tax registration numbers, (~~standard industrial~~)
37 North American industry classification system or standard industrial
38 classification code of a taxpayer, and the dates of opening and closing
39 of business. This subsection shall not be construed as giving

1 authority to the department to give, sell, or provide access to any
2 list of taxpayers for any commercial purpose;

3 (m) Disclosing such return or tax information that is also
4 maintained by another Washington state or local governmental agency as
5 a public record available for inspection and copying under the
6 provisions of chapter 42.17 RCW or is a document maintained by a court
7 of record not otherwise prohibited from disclosure; ~~((or))~~

8 (n) Disclosing such return or tax information to the United States
9 department of agriculture for the limited purpose of investigating food
10 stamp fraud by retailers; or

11 (o) Disclosing to a financial institution, escrow company, or title
12 company, in connection with specific real property that is the subject
13 of a real estate transaction, current amounts due the department for a
14 filed tax warrant, judgment, or lien against the real property.

15 (4)(a) The department may disclose return or taxpayer information
16 to a person under investigation or during any court or administrative
17 proceeding against a person under investigation as provided in this
18 subsection (4). The disclosure must be in connection with the
19 department's official duties relating to an audit, collection activity,
20 or a civil or criminal investigation. The disclosure may occur only
21 when the person under investigation and the person in possession of
22 data, materials, or documents are parties to the return or tax
23 information to be disclosed. The department may disclose return or tax
24 information such as invoices, contracts, bills, statements, resale or
25 exemption certificates, or checks. However, the department may not
26 disclose general ledgers, sales or cash receipt journals, check
27 registers, accounts receivable/payable ledgers, general journals,
28 financial statements, expert's workpapers, income tax returns, state
29 tax returns, tax return workpapers, or other similar data, materials,
30 or documents.

31 (b) Before disclosure of any tax return or tax information under
32 this subsection (4), the department shall, through written
33 correspondence, inform the person in possession of the data, materials,
34 or documents to be disclosed. The correspondence shall clearly
35 identify the data, materials, or documents to be disclosed. The
36 department may not disclose any tax return or tax information under
37 this subsection (4) until the time period allowed in (c) of this
38 subsection has expired or until the court has ruled on any challenge
39 brought under (c) of this subsection.

1 (c) The person in possession of the data, materials, or documents
2 to be disclosed by the department has twenty days from the receipt of
3 the written request required under (b) of this subsection to petition
4 the superior court of the county in which the petitioner resides for
5 injunctive relief. The court shall limit or deny the request of the
6 department if the court determines that:

7 (i) The data, materials, or documents sought for disclosure are
8 cumulative or duplicative, or are obtainable from some other source
9 that is more convenient, less burdensome, or less expensive;

10 (ii) The production of the data, materials, or documents sought
11 would be unduly burdensome or expensive, taking into account the needs
12 of the department, the amount in controversy, limitations on the
13 petitioner's resources, and the importance of the issues at stake; or

14 (iii) The data, materials, or documents sought for disclosure
15 contain trade secret information that, if disclosed, could harm the
16 petitioner.

17 (d) The department shall reimburse reasonable expenses for the
18 production of data, materials, or documents incurred by the person in
19 possession of the data, materials, or documents to be disclosed.

20 (e) Requesting information under (b) of this subsection that may
21 indicate that a taxpayer is under investigation does not constitute a
22 disclosure of tax return or tax information under this section.

23 (5) Any person acquiring knowledge of any return or tax information
24 in the course of his or her employment with the department of revenue
25 and any person acquiring knowledge of any return or tax information as
26 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this
27 section, who discloses any such return or tax information to another
28 person not entitled to knowledge of such return or tax information
29 under the provisions of this section, is guilty of a misdemeanor. If
30 the person guilty of such violation is an officer or employee of the
31 state, such person shall forfeit such office or employment and shall be
32 incapable of holding any public office or employment in this state for
33 a period of two years thereafter.

34 **Sec. 2.** RCW 82.14B.042 and 1998 c 304 s 9 are each amended to read
35 as follows:

36 (1) The state enhanced 911 excise tax imposed by this chapter must
37 be paid by the subscriber to the local exchange company providing the
38 switched access line, and each local exchange company shall collect

1 from the subscriber the full amount of the tax payable. The state
2 enhanced 911 excise tax required by this chapter to be collected by the
3 local exchange company is deemed to be held in trust by the local
4 exchange company until paid to the department. Any local exchange
5 company that appropriates or converts the tax collected to its own use
6 or to any use other than the payment of the tax to the extent that the
7 money collected is not available for payment on the due date as
8 prescribed in this chapter is guilty of a gross misdemeanor.

9 (2) If any local exchange company fails to collect the state
10 enhanced 911 excise tax or, after collecting the tax, fails to pay it
11 to the department in the manner prescribed by this chapter, whether
12 such failure is the result of its own act or the result of acts or
13 conditions beyond its control, the local exchange company is personally
14 liable to the state for the amount of the tax, unless the local
15 exchange company has taken from the buyer in good faith a properly
16 executed resale certificate under RCW 82.14B.200.

17 (3) The amount of tax, until paid by the subscriber to the local
18 exchange company or to the department, constitutes a debt from the
19 subscriber to the local exchange company. Any local exchange company
20 that fails or refuses to collect the tax as required with intent to
21 violate the provisions of this chapter or to gain some advantage or
22 benefit, either direct or indirect, and any subscriber who refuses to
23 pay any tax due under this chapter is guilty of a misdemeanor. The
24 state enhanced 911 excise tax required by this chapter to be collected
25 by the local exchange company must be stated separately on the billing
26 statement that is sent to the subscriber.

27 (4) If a subscriber has failed to pay to the local exchange company
28 the state enhanced 911 excise tax imposed by this chapter and the local
29 exchange company has not paid the amount of the tax to the department,
30 the department may, in its discretion, proceed directly against the
31 subscriber for collection of the tax, in which case a penalty of ten
32 percent may be added to the amount of the tax for failure of the
33 subscriber to pay the tax to the local exchange company, regardless of
34 when the tax is collected by the department. (~~For the sole purpose of~~
35 ~~applying the various provisions of chapter 82.32 RCW, the last day of~~
36 ~~the month following the tax period in which the tax liability accrued~~
37 ~~is to be considered as the due date of the tax)) Tax under this chapter
38 is due as provided under RCW 82.14B.061.~~

1 **Sec. 3.** RCW 82.14B.061 and 1998 c 304 s 6 are each amended to read
2 as follows:

3 (1) The department of revenue shall administer and shall adopt such
4 rules as may be necessary to enforce and administer the state enhanced
5 911 excise tax imposed by this chapter. Chapter 82.32 RCW, with the
6 exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the
7 administration, collection, and enforcement of the state enhanced 911
8 excise tax.

9 (2) The state enhanced 911 excise tax imposed by this chapter,
10 along with reports and returns on forms prescribed by the department,
11 are due (~~monthly on or before the last day of the month following the~~
12 ~~month in which the tax liability accrues~~) at the same time the
13 taxpayer reports other taxes under RCW 82.32.045. If no other taxes
14 are reported under RCW 82.32.045, the taxpayer shall remit tax on an
15 annual basis in accordance with RCW 82.32.045.

16 (3) The department of revenue may relieve any taxpayer or class of
17 taxpayers from the obligation of remitting monthly and may require the
18 return to cover other longer reporting periods, but in no event may
19 returns be filed for a period greater than one year. (~~For these~~
20 ~~taxpayers, tax payments are due on or before the last day of the month~~
21 ~~next succeeding the end of the period covered by the return.~~)

22 (4) The state enhanced 911 excise tax imposed by this chapter is in
23 addition to any taxes imposed upon the same persons under chapters
24 82.08 and 82.12 RCW.

25 **Sec. 4. RCW 82.49.010 and 1999 c 277 s 8 are each amended to read*
26 *as follows:*

27 (1) *An excise tax is imposed for the privilege of using a vessel*
28 *upon the waters of this state, except vessels exempt under RCW*
29 *82.49.020. The annual amount of the excise tax is one-half of one*
30 *percent of fair market value, as determined under this chapter, or five*
31 *dollars, whichever is greater. Violation of this subsection is a*
32 *misdemeanor.*

33 (2)(a) *A person who is required under chapter 88.02 RCW to register*
34 *a vessel in this state and who registers the vessel in another state or*
35 *foreign country and avoids the Washington watercraft taxes, violates*
36 *this section and is liable for those taxes and a monetary penalty not*
37 *less than one thousand dollars but not more than ten thousand dollars*
38 *for each violation. The department may assess and collect the unpaid*

1 excise tax under chapter 82.32 RCW, including the penalties and
2 interest provided in chapter 82.32 RCW.

3 (b) The penalty provided in this section is due and payable when
4 the person incurring it receives a notice in writing from the state
5 patrol describing the violation and advising the person that the
6 penalty is due. The state patrol may, upon written application for
7 review, received within fifteen days, remit or mitigate a penalty
8 provided for in this section or discontinue an action to recover the
9 penalty upon such terms it deems proper and may ascertain the facts in
10 a manner and under rules it deems proper. If the amount of the penalty
11 is not paid to the state patrol within fifteen days after receipt of
12 the notice imposing the penalty, or application for remission or
13 mitigation has not been made within fifteen days after the violator has
14 received notice of the disposition of the application, the attorney
15 general shall bring an action in the name of the state of Washington in
16 the superior court of Thurston county or of any other county in which
17 the violator resides or does business, to recover the penalty,
18 administrative fees, and attorneys' fees. All penalties recovered
19 under this section shall be paid into the state treasury and credited
20 to the state patrol highway account of the motor vehicle fund for the
21 license fraud task force.

22 (3) The excise tax upon a vessel registered for the first time in
23 this state shall be imposed for a twelve-month period, including the
24 month in which the vessel is registered, unless the director of
25 licensing extends or diminishes vessel registration periods for the
26 purpose of staggered renewal periods under RCW 88.02.050. A vessel is
27 registered for the first time in this state when the vessel was not
28 registered in this state for the immediately preceding registration
29 year, or when the vessel was registered in another jurisdiction for the
30 immediately preceding year. The excise tax on vessels required to be
31 registered in this state on June 30, 1983, shall be paid by June 30,
32 1983.

33 *Sec. 4 was vetoed. See message at end of chapter.

34 **Sec. 5.** RCW 82.60.060 and 1985 c 232 s 5 are each amended to read
35 as follows:

36 (1) The recipient shall begin paying the deferred taxes in the
37 third year after the date certified by the department as the date on
38 which the construction project has been operationally completed. The

1 first payment will be due on December 31st of the third calendar year
2 after such certified date, with subsequent annual payments due on
3 December 31st of the following four years with amounts of payment
4 scheduled as follows:

5	Repayment Year	% of Deferred Tax Repaid
6	1	10%
7	2	15%
8	3	20%
9	4	25%
10	5	30%

11 (2) The department may authorize an accelerated repayment schedule
12 upon request of the recipient.

13 (3) Interest shall not be charged on any taxes deferred under this
14 chapter for the period of deferral, although all other penalties and
15 interest applicable to delinquent excise taxes may be assessed and
16 imposed for delinquent payments under this chapter. The debt for
17 deferred taxes will not be extinguished by insolvency or other failure
18 of the recipient. Transfer of ownership does not terminate the
19 deferral. The deferral is transferred, subject to the successor
20 meeting the eligibility requirements of this chapter, for the remaining
21 periods of the deferral.

22 **Sec. 6.** RCW 82.60.080 and 1985 c 232 s 7 are each amended to read
23 as follows:

24 The ((department of)) employment security department shall make,
25 and certify to the department of revenue, all determinations of
26 employment and wages ((required)) as requested by the department under
27 this chapter.

28 **Sec. 7.** RCW 82.62.060 and 1986 c 116 s 19 are each amended to read
29 as follows:

30 The employment security department shall make, and certify to the
31 department of revenue, all determinations of employment and wages
32 ((required)) requested by the department under this chapter.

33 **Sec. 8.** RCW 82.60.049 and 1999 c 164 s 304 are each amended to
34 read as follows:

1 (1) For the purposes of this section:

2 (a) "Eligible area" also means a designated community empowerment
3 zone approved under RCW 43.63A.700 or a county containing a community
4 empowerment zone.

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

7 (c) "Qualified employment position" means a permanent full-time
8 employee employed in the eligible investment project during the entire
9 year.

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

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

19 (b) The positions will be filled by persons who at the time of hire
20 are residents of the community empowerment zone (~~((in which the project~~
21 ~~is located))~~). As used in this subsection, "resident" means the person
22 makes his or her home in the community empowerment zone. A mailing
23 address alone is insufficient to establish that a person is a resident
24 for the purposes of this section. The persons must be hired after the
25 date the application is filed with the department.

26 (3) All other provisions and eligibility requirements of this
27 chapter apply to applicants eligible under this section.

28 (4) The qualified employment position must be filled by the end of
29 the calendar year following the year in which the project is certified
30 as operationally complete. If a person does not meet the requirements
31 (~~((of this section))~~) for qualified employment positions by the end of
32 the second calendar year following the year in which the project is
33 certified as operationally complete, all deferred taxes are immediately
34 due.

35 **Sec. 9.** RCW 82.62.090 and 1999 c 311 s 304 are each amended to
36 read as follows:

1 (1) A person is not eligible to receive a credit under this chapter
2 if the person is receiving credit for the same position under ((section
3 ~~303 of this act or~~) RCW 82.04.44525 or 82.04.4456.

4 (2) This section expires December 31, 2003.

5 **Sec. 10.** RCW 82.63.045 and 1995 1st sp.s. c 3 s 13 are each
6 amended 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. The debt for deferred taxes will not be extinguished by
29 insolvency or other failure of the recipient. Transfer of ownership
30 does not terminate the deferral. The deferral is transferred, subject
31 to the successor meeting the eligibility requirements of this chapter,
32 for the remaining periods of the deferral.

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

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

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

6 **Sec. 11.** RCW 82.04.4456 and 1999 c 311 s 302 are each amended to
7 read as follows:

8 (1) Subject to the limits and provisions of this section, a credit
9 is authorized against the tax otherwise due under this chapter for
10 persons engaged in a rural county in the business of manufacturing
11 software or programming, as those terms are defined in this section.

12 (2) A person who partially or totally relocates a business from one
13 rural county to another rural county is eligible for any qualifying new
14 jobs created as a result of the relocation but is not eligible to
15 receive credit for the jobs moved from one county to the other.

16 (3)(a) To qualify for the credit, the qualifying activity of the
17 person must be conducted in a rural county and the qualified employment
18 position must be located in the rural county.

19 (b) If an activity is conducted both from a rural county and
20 outside of a rural county, the credit is available if at least ninety
21 percent of the qualifying activity (~~(takes place)~~) is conducted within
22 a rural county. If the qualifying activity is a service taxable
23 activity, the place where the work is performed is the place at which
24 the activity is conducted.

25 (4)(a) The credit under this section shall equal one thousand
26 dollars for each qualified employment position created after July 1,
27 1999, in an eligible area. A credit is earned for the calendar year
28 the person is hired to fill the position. Additionally a credit is
29 earned for each year the position is maintained over the subsequent
30 consecutive years, up to four years. The county must meet the
31 definition of a rural county at the time the position is filled. If
32 the county does not have a rural county status the following year or
33 years, the position is still eligible for the remaining years if all
34 other conditions are met.

35 (b) Credit may not be taken for hiring of persons into positions
36 that exist before July 1, 1999. Credit is authorized for new employees
37 hired for new positions created on or after July 1, 1999. New
38 positions filled by existing employees are eligible for the credit

1 under this section only if the position vacated by the existing
2 employee is filled by a new hire. A business that is a sole
3 proprietorship without any employees is equivalent to one employee
4 position and this type of business is eligible to receive credit for
5 one position.

6 (c) If a position is filled before July 1st, this position is
7 eligible for the full yearly credit for that calendar year. If it is
8 filled after June 30th, this position is eligible for half of the
9 credit for that calendar year.

10 (d) A person that has engaged in qualifying activities in the rural
11 county before August 1, 1999, qualifies for the credit under this
12 section for positions created and filled after August 1, 1999.

13 (5) No application is necessary for the tax credit. The person
14 must keep records necessary for the department to verify eligibility
15 under this section. This information includes information relating to
16 description of qualifying activity ((engaged)) conducted in the rural
17 county and outside the rural county by the person as well as detailed
18 records on positions and employees. ~~((The department shall, in
19 consultation with a representative group of affected taxpayers, develop
20 a method of segregating activity and related income so that those
21 persons who engage in multiple activities can determine eligibility for
22 credit under this section.))~~

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

32 (7) The credit under this section may be used against any tax due
33 under this chapter, but in no case may a credit earned during one
34 calendar year be carried over to be credited against taxes incurred in
35 a subsequent calendar year. A person is not eligible to receive a
36 credit under this section if the person is receiving credit for the
37 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
38 the credit under RCW 82.04.4457. No refunds may be granted for credits
39 under this section.

1 (8) A person taking tax credits under this section shall make an
2 annual report to the department. The report shall be in a letter form
3 and shall include the following information: Number of positions for
4 which credit is being claimed, type of position for which credit is
5 being claimed, type of activity in which the person is engaged in the
6 county, ~~((and))~~ how long the person has been located in the county, and
7 taxpayer name and registration number. The report must be filed by
8 January 30th of each year for which credit was claimed during the
9 previous year. Failure to file a report will not result in the loss of
10 eligibility under this section. However, the department, through its
11 research division, shall contact taxpayers who have not filed the
12 report and obtain the data from the taxpayer or assist the taxpayer in
13 the filing of the report, so that the data and information necessary to
14 measure the program's effectiveness is maintained.

15 (9) Transfer of ownership does not affect credit eligibility~~((+))~~.
16 However, the successive credits ~~((is))~~ are available to the successor
17 for remaining periods in the five years only if the eligibility
18 conditions of this section are met.

19 (10) As used in this section:

20 (a) "Manufacturing" means the same as "to manufacture" under RCW
21 82.04.120. Manufacturing includes the activities of both manufacturers
22 and processors for hire.

23 (b) "Programming" means the activities that involve the creation or
24 modification of software, as that term is defined in this chapter, and
25 that are taxable as a service under RCW 82.04.290(2) or as a retail
26 sale under RCW 82.04.050.

27 (c) "Qualifying activity" means manufacturing of software or
28 programming.

29 (d) "Qualified employment position" means a permanent full-time
30 position doing programming of software or manufacturing of software.
31 This excludes administrative, professional, service, executive, and
32 other similar positions. If an employee is either voluntarily or
33 involuntarily separated from employment, the employment position is
34 considered filled on a full-time basis if the employer is either
35 training or actively recruiting a replacement employee. Full-time
36 means a position for at least thirty-five hours a week.

37 (e) "Rural county" means a county with a population density of less
38 than one hundred persons per square mile as determined by the office of

1 financial management and published each year by the department for the
2 period July 1st to June 30th.

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

4 (11) No credit may be taken or accrued under this section on or
5 after January 1, 2004.

6 (12) This section expires December 31, 2003.

7 **Sec. 12.** RCW 82.04.4457 and 1999 c 311 s 303 are each amended to
8 read as follows:

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

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

15 (3) The amount of the tax credit for persons engaged in the
16 activity of providing information technology help desk services in
17 rural counties shall be equal to one hundred percent of the amount of
18 tax due under this chapter that is attributable to providing the
19 services from the rural county. In order to qualify for the credit
20 under this subsection, the county must meet the definition of rural
21 county at the time the person begins to conduct qualifying business in
22 the county.

23 (4) No application is necessary for the tax credit. The person
24 must keep records necessary for the department to verify eligibility
25 under this section. These records include information relating to
26 description of activity engaged in a rural county by the person.

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

35 (6) The credit under this section may be used against any tax due
36 under this chapter, but in no case may a credit earned during one
37 calendar year be carried over to be credited against taxes incurred in

1 a subsequent calendar year. No refunds may be granted for credits
2 under this section.

3 (7) A person taking tax credits under this section shall make an
4 annual report to the department. The report shall be in a letter form
5 and shall include the following information: Type of activity in which
6 the person is engaged in the county, number of employees in the rural
7 county, ((and)) how long the person has been located in the county, and
8 taxpayer name and registration number. The report must be filed by
9 January 30th of each year for which credit was claimed during the
10 previous year. Failure to file a report will not result in the loss of
11 eligibility under this section. However, the department, through its
12 research division, shall contact taxpayers who have not filed the
13 report and obtain the data from the taxpayer or assist the taxpayer in
14 the filing of the report, so that the data and information necessary to
15 measure the program's effectiveness is maintained.

16 (8) Transfer of ownership does not affect credit eligibility((+)).
17 However, the credit is available to the successor only if the
18 eligibility conditions of this section are met.

19 (9) As used in this section:

20 (a) "Information technology help desk services" means the following
21 services performed using electronic and telephonic communication:

- 22 (i) Software and hardware maintenance;
- 23 (ii) Software and hardware diagnostics and troubleshooting;
- 24 (iii) Software and hardware installation;
- 25 (iv) Software and hardware repair;
- 26 (v) Software and hardware information and training; and
- 27 (vi) Software and hardware upgrade.

28 (b) "Rural county" means a county with a population density of less
29 than one hundred persons per square mile, as determined by the office
30 of financial management and published each year by the department for
31 the period July 1st to June 30th.

32 (10) This section expires December 31, 2003.

33 NEW SECTION. Sec. 13. This act takes effect July 1, 2000.

Passed the House February 8, 2000.

Passed the Senate February 29, 2000.

Approved by the Governor March 24, 2000, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 24, 2000.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 4,
3 House Bill No. 2519 entitled:

4 "AN ACT Relating to simplifying the excise tax code through
5 revising terminology, correcting mistakes, streamlining procedures,
6 and deleting obsolete provisions;"

7 Section 4 of this bill contained the same language as section 5 of
8 Substitute Senate Bill No. 6467. Accordingly, I have vetoed section 4
9 to avoid double amendment of the statute.

10 For this reason, I have vetoed section 4 of House Bill No. 2519.

11 With the exception of section 4, House Bill No. 2519 is approved."