

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5725**

Chapter 149, Laws of 2003

58th Legislature  
2003 Regular Session

SEMICONDUCTOR INDUSTRY--INCENTIVES

EFFECTIVE DATE: Contingent effective date.

Passed by the Senate April 27, 2003  
YEAS 40 NAYS 8

BRAD OWEN

**President of the Senate**

Passed by the House April 27, 2003  
YEAS 94 NAYS 4

FRANK CHOPP

**Speaker of the House of Representatives**

Approved May 8, 2003.

GARY F. LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Milton H. Doumit, Jr., Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5725** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MILTON H. DOUMIT JR.

**Secretary**

FILED

May 8, 2003 - 1:36 p.m.

**Secretary of State  
State of Washington**

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**SENATE BILL 5725**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

**State of Washington                      58th Legislature                      2003 Regular Session**

**By** Senators Zarelli, T. Sheldon, Carlson, Reardon, Benton, Hewitt, Winsley, Hale, Sheahan, Honeyford, Finkbeiner, Johnson and West

Read first time 02/07/2003.      Referred to Committee on Economic Development.

1            AN ACT Relating to providing tax incentives to support the  
2 semiconductor cluster in Washington state; amending RCW 82.04.240 and  
3 82.04.280; adding new sections to chapter 82.04 RCW; adding new  
4 sections to chapter 82.08 RCW; adding new sections to chapter 82.12  
5 RCW; adding a new section to chapter 84.36 RCW; adding a new section to  
6 chapter 82.32 RCW; creating new sections; providing a contingent  
7 effective date; and providing expiration dates.

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

9            NEW SECTION.    **Sec. 1.** The legislature finds that the welfare of  
10 the people of the state of Washington is positively impacted through  
11 the encouragement and expansion of family wage employment in the  
12 state's manufacturing industries. The legislature further finds that  
13 targeting tax incentives to focus on key industry clusters is an  
14 important business climate strategy. The Washington competitiveness  
15 council has recognized the semiconductor industry, which includes the  
16 design and manufacture of semiconductor materials, as one of the  
17 state's existing key industry clusters. Businesses in this cluster in  
18 the state of Washington are facing increasing pressure to expand  
19 elsewhere. The sales and use tax exemptions for manufacturing

1 machinery and equipment enacted by the 1995 legislature improved  
2 Washington's ability to compete with other states for manufacturing  
3 investment. However, additional incentives for the semiconductor  
4 cluster need to be put in place in recognition of the unique forces and  
5 global issues involved in business decisions that key businesses in  
6 this cluster face.

7 Therefore, the legislature intends to enact comprehensive tax  
8 incentives for the semiconductor cluster that address activities of the  
9 lead product industry and its suppliers and customers. Tax incentives  
10 for the semiconductor cluster are important in both retention and  
11 expansion of existing business and attraction of new businesses, all of  
12 which will strengthen this cluster. The legislature also recognizes  
13 that the semiconductor industry involves major investment that results  
14 in significant construction projects, which will create jobs and bring  
15 many indirect benefits to the state during the construction phase.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
17 to read as follows:

18 (1) The tax imposed by RCW 82.04.240(2) does not apply to any  
19 person in respect to the manufacturing of semiconductor microchips.

20 (2) For the purposes of this section:

21 (a) "Manufacturing semiconductor microchips" means taking raw  
22 polished semiconductor wafers and embedding integrated circuits on the  
23 wafers using processes such as masking, etching, and diffusion; and

24 (b) "Integrated circuit" means a set of microminiaturized,  
25 electronic circuits.

26 (3) This section expires nine years after the effective date of  
27 this act.

28 **Sec. 3.** RCW 82.04.240 and 1998 c 312 s 3 are each amended to read  
29 as follows:

30 (1) Upon every person ((~~except persons taxable under RCW 82.04.260~~  
31 ~~(1), (2), (4), (5), or (6))~~ engaging within this state in business as  
32 a manufacturer, ~~except persons taxable as manufacturers under other~~  
33 provisions of this chapter; as to such persons the amount of the tax  
34 with respect to such business shall be equal to the value of the  
35 products, including byproducts, manufactured, multiplied by the rate of  
36 0.484 percent.

1       (2) Upon every person engaging within this state in the business of  
2 manufacturing semiconductor materials, as to such persons the amount of  
3 tax with respect to such business shall, in the case of manufacturers,  
4 be equal to the value of the product manufactured, or, in the case of  
5 processors for hire, be equal to the gross income of the business,  
6 multiplied by the rate of 0.275 percent. For the purposes of this  
7 subsection "semiconductor materials" means silicon crystals, silicon  
8 ingots, raw polished semiconductor wafers, compound semiconductors,  
9 integrated circuits, and microchips. This subsection (2) expires  
10 twelve years after the effective date of this act.

11       (3) The measure of the tax is the value of the products, including  
12 byproducts, so manufactured regardless of the place of sale or the fact  
13 that deliveries may be made to points outside the state.

14       **Sec. 4.** RCW 82.04.280 and 1998 c 343 s 3 are each amended to read  
15 as follows:

16       Upon every person engaging within this state in the business of:  
17 (1) Printing, and of publishing newspapers, periodicals, or magazines;  
18 (2) building, repairing or improving any street, place, road, highway,  
19 easement, right of way, mass public transportation terminal or parking  
20 facility, bridge, tunnel, or trestle which is owned by a municipal  
21 corporation or political subdivision of the state or by the United  
22 States and which is used or to be used, primarily for foot or vehicular  
23 traffic including mass transportation vehicles of any kind and  
24 including any readjustment, reconstruction or relocation of the  
25 facilities of any public, private or cooperatively owned utility or  
26 railroad in the course of such building, repairing or improving, the  
27 cost of which readjustment, reconstruction, or relocation, is the  
28 responsibility of the public authority whose street, place, road,  
29 highway, easement, right of way, mass public transportation terminal or  
30 parking facility, bridge, tunnel, or trestle is being built, repaired  
31 or improved; (3) extracting for hire or processing for hire, except  
32 persons taxable as processors for hire under another section of this  
33 chapter; (4) operating a cold storage warehouse or storage warehouse,  
34 but not including the rental of cold storage lockers; (5) representing  
35 and performing services for fire or casualty insurance companies as an  
36 independent resident managing general agent licensed under the  
37 provisions of RCW 48.05.310; (6) radio and television broadcasting,

1 excluding network, national and regional advertising computed as a  
2 standard deduction based on the national average thereof as annually  
3 reported by the Federal Communications Commission, or in lieu thereof  
4 by itemization by the individual broadcasting station, and excluding  
5 that portion of revenue represented by the out-of-state audience  
6 computed as a ratio to the station's total audience as measured by the  
7 100 micro-volt signal strength and delivery by wire, if any; (7)  
8 engaging in activities which bring a person within the definition of  
9 consumer contained in RCW 82.04.190(6); as to such persons, the amount  
10 of tax on such business shall be equal to the gross income of the  
11 business multiplied by the rate of 0.484 percent.

12 As used in this section, "cold storage warehouse" means a storage  
13 warehouse used to store fresh and/or frozen perishable fruits or  
14 vegetables, meat, seafood, dairy products, or fowl, or any combination  
15 thereof, at a desired temperature to maintain the quality of the  
16 product for orderly marketing.

17 As used in this section, "storage warehouse" means a building or  
18 structure, or any part thereof, in which goods, wares, or merchandise  
19 are received for storage for compensation, except field warehouses,  
20 fruit warehouses, fruit packing plants, warehouses licensed under  
21 chapter 22.09 RCW, public garages storing automobiles, railroad freight  
22 sheds, docks and wharves, and "self-storage" or "mini storage"  
23 facilities whereby customers have direct access to individual storage  
24 areas by separate entrance. "Storage warehouse" does not include a  
25 building or structure, or that part of such building or structure, in  
26 which an activity taxable under RCW 82.04.272 is conducted.

27 As used in this section, "periodical or magazine" means a printed  
28 publication, other than a newspaper, issued regularly at stated  
29 intervals at least once every three months, including any supplement or  
30 special edition of the publication.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW  
32 to read as follows:

33 (1) The tax levied by RCW 82.08.020 shall not apply to charges made  
34 for labor and services rendered in respect to the constructing of new  
35 buildings used for the manufacturing of semiconductor materials, to  
36 sales of tangible personal property that will be incorporated as an  
37 ingredient or component of such buildings during the course of the

1 constructing, or to labor and services rendered in respect to  
2 installing, during the course of constructing, building fixtures not  
3 otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The  
4 exemption is available only when the buyer provides the seller with an  
5 exemption certificate in a form and manner prescribed by the  
6 department. The seller shall retain a copy of the certificate for the  
7 seller's files.

8 (2) To be eligible under this section the manufacturer or processor  
9 for hire must meet the following requirements for an eight-year period,  
10 such period beginning the day the new building commences commercial  
11 production, or a portion of tax otherwise due shall be immediately due  
12 and payable pursuant to subsection (3) of this section:

13 (a) The manufacturer or processor for hire must maintain at least  
14 seventy-five percent of full employment at the new building for which  
15 the exemption under this section is claimed.

16 (b) Before commencing commercial production at a new facility the  
17 manufacturer or processor for hire must meet with the department to  
18 review projected employment levels in the new buildings. The  
19 department, using information provided by the taxpayer, shall make a  
20 determination of the number of positions that would be filled at full  
21 employment. This number shall be used throughout the eight-year period  
22 to determine whether any tax is to be repaid. This information is not  
23 subject to the confidentiality provisions of RCW 82.32.330 and may be  
24 disclosed to the public upon request.

25 (c) In those situations where a production building in existence on  
26 the effective date of this section will be phased out of operation  
27 during which time employment at the new building at the same site is  
28 increased, the manufacturer or processor for hire shall maintain  
29 seventy-five percent of full employment at the manufacturing site  
30 overall.

31 (d) No application is necessary for the tax exemption. The person  
32 is subject to all the requirements of chapter 82.32 RCW. A person  
33 taking the exemption under this section must report as required under  
34 section 11 of this act.

35 (3) If the employment requirement is not met for any one calendar  
36 year, one-eighth of the exempt sales and use taxes shall be due and  
37 payable by April 1st of the following year. The department shall

1 assess interest to the date the tax was imposed, but not penalties, on  
2 the taxes for which the person is not eligible.

3 (4) The exemption applies to new buildings, or parts of buildings,  
4 that are used exclusively in the manufacturing of semiconductor  
5 materials, including the storage of raw materials and finished product.

6 (5) For the purposes of this section:

7 (a) "Commencement of commercial production" is deemed to have  
8 occurred when the equipment and process qualifications in the new  
9 building are completed and production for sale has begun; and

10 (b) "Full employment" is the number of positions required for full  
11 capacity production at the new building, for positions such as line  
12 workers, engineers, and technicians.

13 (c) "Semiconductor materials" has the same meaning as provided in  
14 RCW 82.04.240(2).

15 (6) No exemption may be taken after twelve years after the  
16 effective date of this act, however all of the eligibility criteria and  
17 limitations are applicable to any exemptions claimed before that date.

18 (7) This section expires twelve years after the effective date of  
19 this act.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12 RCW  
21 to read as follows:

22 (1) The provisions of this chapter do not apply with respect to the  
23 use of tangible personal property that will be incorporated as an  
24 ingredient or component of new buildings used for the manufacturing of  
25 semiconductor materials during the course of constructing such  
26 buildings or to labor and services rendered in respect to installing,  
27 during the course of constructing, building fixtures not otherwise  
28 eligible for the exemption under RCW 82.08.02565(2)(b).

29 (2) The eligibility requirements, conditions, and definitions in  
30 section 5 of this act apply to this section.

31 (3) No exemption may be taken twelve years after the effective date  
32 of this act, however all of the eligibility criteria and limitations  
33 are applicable to any exemptions claimed before that date.

34 (4) This section expires twelve years after the effective date of  
35 this act.

1        NEW SECTION.    **Sec. 7.**    A new section is added to chapter 82.08 RCW  
2 to read as follows:

3        (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
4 gases and chemicals used by a manufacturer or processor for hire in the  
5 manufacturing of semiconductor materials. This exemption is limited to  
6 gases and chemicals used in the manufacturing process to grow the  
7 product, deposit or grow permanent or sacrificial layers on the  
8 product, to etch or remove material from the product, to anneal the  
9 product, to immerse the product, to clean the product, and other such  
10 uses whereby the gases and chemicals come into direct contact with the  
11 product during the manufacturing process, or uses of gases and  
12 chemicals to clean the chambers and other like equipment in which such  
13 processing takes place. For the purposes of this section,  
14 "semiconductor materials" has the same meaning as provided in RCW  
15 82.04.240(2).

16        (2) A person taking the exemption under this section must report  
17 under section 11 of this act. No application is necessary for the tax  
18 exemption. The person is subject to all of the requirements of chapter  
19 82.32 RCW.

20        (3) This section expires twelve years after the effective date of  
21 this act.

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

24        (1) The provisions of this chapter do not apply with respect to the  
25 use of gases and chemicals used by a manufacturer or processor for hire  
26 in the manufacturing of semiconductor materials. This exemption is  
27 limited to gases and chemicals used in the manufacturing process to  
28 grow the product, deposit or grow permanent or sacrificial layers on  
29 the product, to etch or remove material from the product, to anneal the  
30 product, to immerse the product, to clean the product, and other such  
31 uses whereby the gases and chemicals come into direct contact with the  
32 product during the manufacturing process, or uses of gases and  
33 chemicals to clean the chambers and other like equipment in which such  
34 processing takes place. For purposes of this section, "semiconductor  
35 materials" has the same meaning as provided in RCW 82.04.240(2).

36        (2) A person taking the exemption under this section must report



1 under section 11 of this act. No application is necessary for the tax  
2 exemption. The person is subject to all of the requirements of chapter  
3 82.32 RCW.

4 (3) This section expires twelve years after the effective date of  
5 this act.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW  
7 to 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 RCW 82.04.240(2) for  
10 persons engaged in the business of manufacturing semiconductor  
11 materials. For the purposes of this section "semiconductor materials"  
12 has the same meaning as provided in RCW 82.04.240(2).

13 (2)(a) The credit under this section shall equal three thousand  
14 dollars for each employment position used in manufacturing production  
15 that takes place in a new building exempt from sales and use tax under  
16 sections 5 and 6 of this act. A credit is earned for the calendar year  
17 a person fills a position. Additionally a credit is earned for each  
18 year the position is maintained over the subsequent consecutive years,  
19 up to eight years. Those positions that are not filled for the entire  
20 year are eligible for fifty percent of the credit if filled less than  
21 six months, and the entire credit if filled more than six months.

22 (b) To qualify for the credit, the manufacturing activity of the  
23 person must be conducted at a new building that qualifies for the  
24 exemption from sales and use tax under sections 5 and 6 of this act.

25 (c) In those situations where a production building in existence on  
26 the effective date of this section will be phased out of operation,  
27 during which time employment at the new building at the same site is  
28 increased, the person is eligible for credit for employment at the  
29 existing building and new building, with the limitation that the  
30 combined eligible employment not exceed full employment at the new  
31 building. "Full employment" has the same meaning as in section 5 of  
32 this act. The credit may not be earned until the commencement of  
33 commercial production, as that term is used in section 5 of this act.

34 (3) No application is necessary for the tax credit. The person is  
35 subject to all of the requirements of chapter 82.32 RCW. In no case  
36 may a credit earned during one calendar year be carried over to be

1 credited against taxes incurred in a subsequent calendar year. No  
2 refunds may be granted for credits under this section.

3 (4) If at any time the department finds that a person is not  
4 eligible for tax credit under this section, the amount of taxes for  
5 which a credit has been claimed shall be immediately due. The  
6 department shall assess interest, but not penalties, on the taxes for  
7 which the person is not eligible. The interest shall be assessed at  
8 the rate provided for delinquent excise taxes under chapter 82.32 RCW,  
9 shall be retroactive to the date the tax credit was taken, and shall  
10 accrue until the taxes for which a credit has been used are repaid.

11 (5) A person taking the credit under this section must report under  
12 section 11 of this act.

13 (6) Credits may be taken after twelve years after the effective  
14 date of this act, for those buildings at which commercial production  
15 began before twelve years after the effective date of this act, subject  
16 to all of the eligibility criteria and limitations of this section.

17 (7) This section expires twelve years after the effective date of  
18 this act.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 84.36 RCW  
20 to read as follows:

21 (1) Machinery and equipment exempt under RCW 82.08.02565 or  
22 82.12.02565 used in manufacturing semiconductor materials at a building  
23 exempt from sales and use tax and in compliance with the employment  
24 requirement under sections 5 and 6 of this act are tax exempt from  
25 taxation. "Semiconductor materials" has the same meaning as provided  
26 in RCW 82.04.240(2).

27 (2) A person seeking this exemption must make application to the  
28 county assessor, on forms prescribed by the department.

29 (3) A person receiving an exemption under this section must report  
30 in the manner prescribed in section 11 of this act.

31 (4) This section is effective for taxes levied for collection one  
32 year after the effective date of this act and thereafter.

33 (5) This section expires December 31st of the year occurring twelve  
34 years after the effective date of this act, for taxes levied for  
35 collection in the following year.

1        NEW SECTION.    **Sec. 11.**    A new section is added to chapter 82.32 RCW  
2 to read as follows:

3        (1) The legislature finds that accountability and effectiveness are  
4 important aspects of setting tax policy.    In order to make policy  
5 choices regarding the best use of limited state resources the  
6 legislature needs information on how a tax incentive is used.

7        (2)(a) A person who reports taxes under RCW 82.04.240(2) or who  
8 claims an exemption or credit under section 2 or 5 through 10 of this  
9 act, shall make an annual report to the department detailing  
10 employment, wages, and employer-provided health and retirement benefits  
11 per job at the manufacturing site.    The report shall not include names  
12 of employees.    The report shall also detail employment by the total  
13 number of full-time, part-time, and temporary positions.    The first  
14 report filed under this subsection shall include employment, wage, and  
15 benefit information for the twelve-month period immediately before  
16 first use of a preferential tax rate under RCW 82.04.240(2), or tax  
17 exemption or credit under section 2 or 5 through 10 of this act.    The  
18 report is due by March 31st following any year in which a preferential  
19 tax rate under RCW 82.04.240(2) is used, or tax exemption or credit  
20 under section 2 or 5 through 10 of this act is taken.    This information  
21 is not subject to the confidentiality provisions of RCW 82.32.330 and  
22 may be disclosed to the public upon request.

23        (b) If a person fails to submit an annual report under (a) of this  
24 subsection the department shall declare the amount of taxes exempted or  
25 credited for that year to be immediately due and payable.    Excise taxes  
26 payable under this subsection are subject to interest, as provided  
27 under this chapter.    This information is not subject to the  
28 confidentiality provisions of RCW 82.32.330 and may be disclosed to the  
29 public upon request.

30        (3) By November 1st of the year occurring five years after the  
31 effective date of this act, and November 1st of the year occurring  
32 eleven years after the effective date of this act, the fiscal  
33 committees of the house of representatives and the senate, in  
34 consultation with the department, shall report to the legislature on  
35 the effectiveness of chapter . . . , Laws of 2003 (this act) in regard  
36 to keeping Washington competitive.    The report shall measure the effect  
37 of chapter . . . , Laws of 2003 (this act) on job retention, net jobs  
38 created for Washington residents, company growth, diversification of

1 the state's economy, cluster dynamics, and other factors as the  
2 committees select. The reports shall include a discussion of  
3 principles to apply in evaluating whether the legislature should  
4 reenact any or all of the tax preferences in chapter . . . , Laws of  
5 2003 (this act).

6 NEW SECTION. **Sec. 12.** (1)(a) This act is contingent upon the  
7 siting and commercial operation of a significant semiconductor  
8 microchip fabrication facility in the state of Washington.

9 (b) For the purposes of this section:

10 (i) "Commercial operation" means the same as "commencement of  
11 commercial production" as used in section 5 of this act.

12 (ii) "Semiconductor microchip fabrication" means "manufacturing  
13 semiconductor microchips" as defined in section 2 of this act.

14 (iii) "Significant" means the combined investment of new buildings  
15 and new machinery and equipment in the buildings, at the commencement  
16 of commercial production, will be at least one billion dollars.

17 (2) This act takes effect the first day of the month in which a  
18 contract for the construction of a significant semiconductor  
19 fabrication facility is signed, as determined by the director of the  
20 department of revenue.

21 (3)(a) The department of revenue shall provide notice of the  
22 effective date of this act to affected taxpayers, the legislature, and  
23 others as deemed appropriate by the department.

24 (b) If, after making a determination that a contract has been  
25 signed and this act is effective, the department discovers that  
26 commencement of commercial production did not take place within three  
27 years of the date the contract was signed, the department shall make a  
28 determination that this act is no longer effective, and all taxes that  
29 would have been otherwise due shall be deemed deferred taxes and are  
30 immediately assessed and payable from any person reporting tax under  
31 RCW 82.04.240(2) or claiming an exemption or credit under section 2 or  
32 5 through 10 of this act. The department is not authorized to make a  
33 second determination regarding the effective date of this act.

Passed by the Senate April 27, 2003.  
Passed by the House April 27, 2003.  
Approved by the Governor May 8, 2003.  
Filed in Office of Secretary of State May 8, 2003.