
SENATE BILL 5863

State of Washington

59th Legislature

2005 Regular Session

By Senators Prentice, Zarelli and Shin; by request of Department of Revenue

Read first time 02/10/2005. Referred to Committee on Ways & Means.

1 AN ACT Relating to improving consistency among tax incentives
2 enacted during the 2003-2005 biennium; amending RCW 82.63.010,
3 82.63.020, 82.63.045, 82.60.020, 82.60.049, 82.60.060, 82.60.065,
4 82.60.070, 82.60.100, 82.04.4483, 82.04.4484, 82.32.535, 82.32.545,
5 82.32.560, and 82.32.570; adding new sections to chapter 82.32 RCW;
6 adding new sections to chapter 82.60 RCW; creating a new section;
7 prescribing penalties; providing an effective date; and declaring an
8 emergency.

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

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

12 (1) If the department finds that the failure of a taxpayer to file
13 an annual survey under RCW 82.04.4483, 82.04.4484, 82.32.535,
14 82.32.545, 82.32.570, 82.32.560, 82.60.070, 82.62.050, or 82.63.020 by
15 the due date was the result of circumstances beyond the control of the
16 taxpayer, the department shall extend the time for filing the survey.
17 Such extension shall be for a period of thirty days from the date the
18 department issues its written notification to the taxpayer that it

1 qualifies for an extension under this section. The department may
2 grant additional extensions as it deems proper.

3 (2) In making a determination whether the failure of a taxpayer to
4 file an annual survey by the due date was the result of circumstances
5 beyond the control of the taxpayer, the department shall be guided by
6 WAC 458-20-228 relating to the waiver or cancellation of penalties when
7 the underpayment or untimely payment of any tax was due to
8 circumstances beyond the control of the taxpayer.

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

11 (1) Persons required to file surveys under RCW 82.04.4483,
12 82.04.4484, 82.32.535, 82.32.545, 82.32.570, 82.32.560, 82.60.070,
13 82.62.050, or 82.63.020 must electronically file with the department
14 all surveys, returns, and any other forms or information the department
15 requires in an electronic format as provided or approved by the
16 department, unless the department grants relief under subsection (2) of
17 this section. As used in this section, "returns" has the same meaning
18 as "return" in RCW 82.32.050.

19 (2) Upon request, the department may relieve a person of the
20 obligations in subsection (1) of this section if the person's taxes
21 have been reduced a cumulative total of less than one thousand dollars
22 in a calendar year from all of the credits, exemptions, or preferential
23 business and occupation tax rates, for which a person is required to
24 file an annual survey under RCW 82.04.4452, 82.04.4483, 82.04.4484,
25 82.32.535, 82.32.545, 82.32.570, 82.32.560, 82.60.070, 82.62.050, or
26 82.63.020.

27 (3) Persons who no longer qualify for relief under subsection (2)
28 of this section will be notified in writing by the department and must
29 comply with subsection (1) of this section by the date provided in the
30 notice.

31 (4) Any survey, return, or any other form or information required
32 to be filed in an electronic format under subsection (1) of this
33 section is not filed until received by the department in an electronic
34 format.

35 **Sec. 3.** RCW 82.63.010 and 2004 c 2 s 3 are each amended to read as
36 follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

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

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

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

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

23 (6) "Electronic device technology" means technologies involving
24 microelectronics; semiconductors; electronic equipment and
25 instrumentation; radio frequency, microwave, and millimeter
26 electronics; optical and optic-electrical devices; and data and digital
27 communications and imaging devices.

28 (7) "Eligible investment project" means an investment project which
29 either initiates a new operation, or expands or diversifies a current
30 operation by expanding, renovating, or equipping an existing facility.
31 The lessor or owner of the qualified building is not eligible for a
32 deferral unless:

33 (a) The underlying ownership of the buildings, machinery, and
34 equipment vests exclusively in the same person; or

35 (b)(i) The lessor by written contract agrees to pass the economic
36 benefit of the deferral to the lessee;

37 (ii) The lessee that receives the economic benefit of the deferral

1 agrees in writing with the department to complete the annual survey
2 required under RCW 82.63.020(2); and

3 (iii) The economic benefit of the deferral passed to the lessee is
4 no less than the amount of tax deferred by the lessor and is evidenced
5 by written documentation of any type of payment, credit, or other
6 financial arrangement between the lessor or owner of the qualified
7 building and the lessee.

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

11 (9) "Investment project" means an investment in qualified buildings
12 or qualified machinery and equipment, including labor and services
13 rendered in the planning, installation, and construction or improvement
14 of the project.

15 (10) "Person" has the meaning given in RCW 82.04.030 and includes
16 state universities as defined in RCW 28B.10.016.

17 (11) "Pilot scale manufacturing" means design, construction, and
18 testing of preproduction prototypes and models in the fields of
19 biotechnology, advanced computing, electronic device technology,
20 advanced materials, and environmental technology other than for
21 commercial sale. As used in this subsection, "commercial sale"
22 excludes sales of prototypes or sales for market testing if the total
23 gross receipts from such sales of the product, service, or process do
24 not exceed one million dollars.

25 (12) "Qualified buildings" means construction of new structures
26 including parking facilities, and expansion or renovation of existing
27 structures for the purpose of increasing floor space or production
28 capacity, used for pilot scale manufacturing or qualified research and
29 development, including plant offices and other facilities that are an
30 essential or an integral part of a structure used for pilot scale
31 manufacturing or qualified research and development. If a building is
32 used partly for pilot scale manufacturing or qualified research and
33 development, and partly for other purposes, the applicable tax deferral
34 shall be determined by apportionment of the costs of construction under
35 rules adopted by the department.

36 (13) "Qualified machinery and equipment" means fixtures, equipment,
37 and support facilities that are an integral and necessary part of a
38 pilot scale manufacturing or qualified research and development

1 operation. "Qualified machinery and equipment" includes: Computers;
2 software; data processing equipment; laboratory equipment,
3 instrumentation, and other devices used in a process of experimentation
4 to develop a new or improved pilot model, plant process, product,
5 formula, invention, or similar property; manufacturing components such
6 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
7 vats, tanks, and fermenters; operating structures; and all other
8 equipment used to control, monitor, or operate the machinery. For
9 purposes of this chapter, qualified machinery and equipment must be
10 either new to the taxing jurisdiction of the state or new to the
11 certificate holder, except that used machinery and equipment may be
12 treated as qualified machinery and equipment if the certificate holder
13 either brings the machinery and equipment into Washington or makes a
14 retail purchase of the machinery and equipment in Washington or
15 elsewhere.

16 (14) "Qualified research and development" means research and
17 development performed within this state in the fields of advanced
18 computing, advanced materials, biotechnology, electronic device
19 technology, and environmental technology.

20 (15) "Recipient" means a person receiving a tax deferral under this
21 chapter.

22 (16) "Research and development" means activities performed to
23 discover technological information, and technical and nonroutine
24 activities concerned with translating technological information into
25 new or improved products, processes, techniques, formulas, inventions,
26 or software. The term includes exploration of a new use for an
27 existing drug, device, or biological product if the new use requires
28 separate licensing by the federal food and drug administration under
29 chapter 21, C.F.R., as amended. The term does not include adaptation
30 or duplication of existing products where the products are not
31 substantially improved by application of the technology, nor does the
32 term include surveys and studies, social science and humanities
33 research, market research or testing, quality control, sale promotion
34 and service, computer software developed for internal use, and research
35 in areas such as improved style, taste, and seasonal design.

36 (17)(a) "Initiation of construction" means the date that a building
37 permit is issued under the building code adopted under RCW 19.27.031
38 for:

1 (i) Construction of the qualified building, if the underlying
2 ownership of the building vests exclusively with the person receiving
3 the economic benefit of the deferral;

4 (ii) Construction of the qualified building, if the economic
5 benefits of the deferral are passed to a lessee as provided in
6 subsection (7) of this section; or

7 (iii) Tenant improvements for a qualified building, if the economic
8 benefits of the deferral are passed to a lessee as provided in
9 subsection (7) of this section.

10 (b) "Initiation of construction" does not include soil testing,
11 site clearing and grading, site preparation, or any other related
12 activities that are initiated before the issuance of a building permit
13 for the construction of the foundation of the building.

14 (c) If the investment project (~~((is a phased project))~~) involves more
15 than one qualified building, "initiation of construction" shall apply
16 separately to each (~~((phase))~~) qualified building.

17 **Sec. 4.** RCW 82.63.020 and 2004 c 2 s 4 are each amended to read as
18 follows:

19 (1) Application for deferral of taxes under this chapter must be
20 made before initiation of construction of, or acquisition of equipment
21 or machinery for the investment project. The application shall be made
22 to the department in a form and manner prescribed by the department.
23 The application shall contain information regarding the location of the
24 investment project, the applicant's average employment in the state for
25 the prior year, estimated or actual new employment related to the
26 project, estimated or actual wages of employees related to the project,
27 estimated or actual costs, time schedules for completion and operation,
28 and other information required by the department. The department shall
29 rule on the application within sixty days.

30 (2)(a) The legislature finds that accountability and effectiveness
31 are important aspects of setting tax policy. In order to make policy
32 choices regarding the best use of limited state resources the
33 legislature needs information on how a tax incentive is used.

34 (b) (~~((Applicants for))~~) Recipients of a deferral of taxes under this
35 chapter shall (~~((agree to complete an))~~) file a complete annual survey
36 with the department. If the economic benefits of the deferral are
37 passed to a lessee as provided in RCW 82.63.010(7), the lessee shall

1 (~~agree to complete the~~) file a complete annual survey with the
2 department and the applicant is not required to file a complete (~~the~~)
3 annual survey. The survey is due by March 31st of the year following
4 the calendar year in which the investment project is certified by the
5 department as having been operationally complete and the seven
6 succeeding calendar years. The department may extend the due date for
7 timely filing annual surveys under this section, as provided in section
8 1 of this act. The survey shall include the amount of tax deferred,
9 the number of new products or research projects by general
10 classification, and the number of trademarks, patents, and copyrights
11 associated with activities at the investment project. The survey shall
12 also include the following information for employment positions in
13 Washington:

14 (i) The number of total employment positions;

15 (ii) Full-time, part-time, and temporary employment positions as a
16 percent of total employment;

17 (iii) The number of employment positions according to the following
18 wage bands: Less than thirty thousand dollars; thirty thousand dollars
19 or greater, but less than sixty thousand dollars; and sixty thousand
20 dollars or greater. A wage band containing fewer than three
21 individuals may be combined with another wage band; and

22 (iv) The number of employment positions that have employer-provided
23 medical, dental, and retirement benefits, by each of the wage bands.

24 (c) The department may request additional information necessary to
25 measure the results of the deferral program, to be submitted at the
26 same time as the survey.

27 (d) If a recipient of the deferral fails to file a complete annual
28 survey required under this subsection by the date due or any extension
29 granted under section 1 of this act, the portion of deferred taxes that
30 need not be repaid for the previous calendar year according to the
31 schedule in RCW 82.63.045(2) shall be immediately due and payable. If
32 the economic benefits of the deferral are passed to a lessee as
33 provided in RCW 82.63.010(7), the lessee is responsible for payment to
34 the extent the lessee has received the economic benefit. The
35 department shall assess interest, but not penalties, on the deferred
36 taxes payable under this subsection. The interest shall be assessed at
37 the rate provided for delinquent excise taxes under chapter 82.32 RCW,

1 retroactively to the date of deferral, and shall accrue until the
2 deferred taxes are repaid.

3 (e) A recipient who must repay deferred taxes under RCW
4 82.63.045(2) because the department has found that an investment
5 project is used for purposes other than qualified research and
6 development or pilot scale manufacturing is no longer required to file
7 annual surveys under this section beginning on the date an investment
8 project is used for nonqualifying purposes.

9 (f) All information collected under this subsection, except the
10 amount of the tax deferral taken, is deemed taxpayer information under
11 RCW 82.32.330 ((and is not disclosable)). Information on the amount of
12 tax deferral taken is not subject to the confidentiality provisions of
13 RCW 82.32.330 and may be disclosed to the public upon request.

14 (3) The department shall use the information from this section to
15 prepare summary descriptive statistics by category. No fewer than
16 three taxpayers shall be included in any category. The department
17 shall report these statistics to the legislature each year by September
18 1st.

19 (4) The department shall use the information to study the tax
20 deferral program authorized under this chapter. The department shall
21 report to the legislature by December 1, 2009, and December 1, 2013.
22 The reports shall measure the effect of the program on job creation,
23 the number of jobs created for Washington residents, company growth,
24 the introduction of new products, the diversification of the state's
25 economy, growth in research and development investment, the movement of
26 firms or the consolidation of firms' operations into the state, and
27 such other factors as the department selects.

28 **Sec. 5.** RCW 82.63.045 and 2004 c 2 s 6 are each amended to read as
29 follows:

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

32 (2)((+a)) If, on the basis of a survey under RCW 82.63.020 or
33 other information, the department finds that an investment project is
34 used for purposes other than qualified research and development or
35 pilot scale manufacturing at any time during the calendar year in which
36 the investment project is certified by the department as having been

1 operationally completed, or at any time during any of the seven
2 succeeding calendar years, a portion of deferred taxes shall be
3 immediately due according to the following schedule:

4	Year in which use occurs	% of deferred taxes due
5	1	100%
6	2	87.5%
7	3	75%
8	4	62.5%
9	5	50%
10	6	37.5%
11	7	25%
12	8	12.5%

13 ~~((b) If a recipient of the deferral fails to complete the annual
14 survey required under RCW 82.63.020 by the date due, 12.5 percent of
15 the deferred tax shall be immediately due. If the economic benefits of
16 the deferral are passed to a lessee as provided in RCW 82.63.010(7),
17 the lessee shall be responsible for payment to the extent the lessee
18 has received the economic benefit.~~

19 ~~(c) If an investment project is used for purposes other than
20 qualified research and development or pilot scale manufacturing at any
21 time during the calendar year in which the investment project is
22 certified as having been operationally complete and the recipient of
23 the deferral fails to complete the annual survey due under RCW
24 82.63.020, the portion of deferred taxes immediately due is the amount
25 on the schedule in (a) of this subsection. If the economic benefits of
26 the deferral are passed to a lessee as provided in RCW 82.63.010(7),
27 the lessee shall be responsible for payment to the extent the lessee
28 has received the economic benefit.)~~

29 (3) The department shall assess interest, but not penalties, on the
30 deferred taxes under subsection (2) of this section. The interest
31 shall be assessed at the rate provided for delinquent taxes under
32 chapter 82.32 RCW, ((but not penalties,)) retroactively to the date of
33 deferral, and shall accrue until the deferred taxes are repaid. The
34 debt for deferred taxes will not be extinguished by insolvency or other
35 failure of the recipient. Transfer of ownership does not terminate the
36 deferral. The deferral is transferred(~~(, subject to the successor~~

1 meeting)) if the new owner meets the eligibility requirements of this
2 chapter, for the remaining periods of the deferral, and the new owner
3 agrees in writing to assume liability for payment of any deferred taxes
4 under subsection (2) of this section. The original recipient of a
5 deferral that is transferred is not responsible for payment of any
6 deferred tax under subsection (2) of this section for periods
7 subsequent to the transfer.

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

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

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

15 **Sec. 6.** RCW 82.60.020 and 2004 c 25 s 3 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

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

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

22 (3) "Eligible area" means a rural county as defined in RCW
23 82.14.370.

24 (4)(a) "Eligible investment project" means an investment project in
25 an eligible area as defined in subsection (3) of this section.

26 (b) The lessor or owner of a qualified building is not eligible for
27 a deferral unless:

28 (i) The underlying ownership of the buildings, machinery, and
29 equipment vests exclusively in the same person; or

30 (ii)(A) The lessor by written contract agrees to pass the economic
31 benefit of the deferral to the lessee;

32 (B) The lessee that receives the economic benefit of the deferral
33 agrees in writing with the department to complete the annual survey
34 required under RCW 82.60.070; and

35 (C) The economic benefit of the deferral passed to the lessee is no
36 less than the amount of tax deferred by the lessor and is evidenced by

1 written documentation of any type of payment, credit, or other
2 financial arrangement between the lessor or owner of the qualified
3 building and the lessee.

4 (c) "Eligible investment project" does not include any portion of
5 an investment project undertaken by a light and power business as
6 defined in RCW 82.16.010(5), other than that portion of a cogeneration
7 project that is used to generate power for consumption within the
8 manufacturing site of which the cogeneration project is an integral
9 part, or investment projects which have already received deferrals
10 under this chapter.

11 (5)(a) "Initiation of construction" means the date that a building
12 permit is issued under the building code adopted under RCW 19.27.031
13 for:

14 (i) Construction of the qualified building, if the underlying
15 ownership of the building vests exclusively with the person receiving
16 the economic benefit of the deferral;

17 (ii) Construction of the qualified building, if the economic
18 benefits of the deferral are passed to a lessee as provided in
19 subsection (4) of this section; or

20 (iii) Tenant improvements for a qualified building, if the economic
21 benefits of the deferral are passed to a lessee as provided in
22 subsection (4) of this section.

23 (b) "Initiation of construction" does not include soil testing,
24 site clearing and grading, site preparation, or any other related
25 activities that are initiated before the issuance of a building permit
26 for the construction of the foundation of the building.

27 (c) If the investment project involves more than one qualified
28 building, initiation of construction applies separately to each
29 qualified building.

30 (6) "Investment project" means an investment in qualified buildings
31 or qualified machinery and equipment, including labor and services
32 rendered in the planning, installation, and construction of the
33 project.

34 ((+6+)) (7) "Manufacturing" means the same as defined in RCW
35 82.04.120. "Manufacturing" also includes computer programming, the
36 production of computer software, and other computer-related services,
37 and the activities performed by research and development laboratories
38 and commercial testing laboratories.

1 ~~((7))~~ (8) "Person" has the meaning given in RCW 82.04.030.

2 ~~((8))~~ (9) "Qualified buildings" means construction of new
3 structures including parking facilities, and expansion or renovation of
4 existing structures for the purpose of increasing floor space or
5 production capacity, used for manufacturing and research and
6 development activities, including plant offices and warehouses or other
7 facilities for the storage of raw material or finished goods if such
8 facilities are an essential or an integral part of a factory, mill,
9 plant, or laboratory used for manufacturing or research and
10 development. If a building is used partly for manufacturing or
11 research and development and partly for other purposes, the applicable
12 tax deferral shall be determined by apportionment of the costs of
13 construction under rules adopted by the department.

14 ~~((9))~~ (10) "Qualified employment position" means a permanent
15 full-time employee employed in the eligible investment project during
16 the entire tax year. The term "entire tax year" means a full-time
17 position that is filled for a period of twelve consecutive months. The
18 term "full-time" means at least thirty-five hours a week, four hundred
19 fifty-five hours a quarter, or one thousand eight hundred twenty hours
20 a year.

21 ~~((10))~~ (11) "Qualified machinery and equipment" means all new
22 industrial and research fixtures, equipment, and support facilities
23 that are an integral and necessary part of a manufacturing or research
24 and development operation. "Qualified machinery and equipment"
25 includes: Computers; software; data processing equipment; laboratory
26 equipment; manufacturing components such as belts, pulleys, shafts, and
27 moving parts; molds, tools, and dies; operating structures; and all
28 equipment used to control or operate the machinery.

29 ~~((11))~~ (12) "Recipient" means a person receiving a tax deferral
30 under this chapter.

31 ~~((12))~~ (13) "Research and development" means the development,
32 refinement, testing, marketing, and commercialization of a product,
33 service, or process before commercial sales have begun. As used in
34 this subsection, "commercial sales" excludes sales of prototypes or
35 sales for market testing if the total gross receipts from such sales of
36 the product, service, or process do not exceed one million dollars.

1 **Sec. 7.** RCW 82.60.049 and 2004 c 25 s 5 are each amended to read
2 as follows:

3 (1) For the purposes of this section:

4 (a) "Eligible area" also means a designated community empowerment
5 zone approved under RCW 43.31C.020 or a county containing a community
6 empowerment zone.

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

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

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

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

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

27 (4) The qualified employment position must be filled by the end of
28 the calendar year following the year in which the project is certified
29 as operationally complete. If a person does not meet the requirements
30 for qualified employment positions by the end of the second calendar
31 year following the year in which the project is certified as
32 operationally complete, all deferred taxes are immediately due. The
33 provisions of section 9(3) of this act apply to the taxes payable under
34 this subsection.

35 **Sec. 8.** RCW 82.60.060 and 2000 c 106 s 5 are each amended to read
36 as follows:

37 (1) The recipient shall begin paying the deferred taxes in the

1 third year after the date certified by the department as the date on
2 which the construction project has been operationally completed. The
3 first payment will be due on December 31st of the third calendar year
4 after such certified date, with subsequent annual payments due on
5 December 31st of the following four years with amounts of payment
6 scheduled as follows:

7	Repayment Year	% of Deferred Tax Repaid
8	1	10%
9	2	15%
10	3	20%
11	4	25%
12	5	30%

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

15 (3) If, on the basis of a survey under RCW 82.60.070 or other
16 information, the department finds that an investment project is not
17 eligible for tax deferral under this chapter, the amount of deferred
18 taxes outstanding for the project is immediately due and payable.

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

28 (5) This section applies to investment projects that are not
29 eligible as of June 30, 2005, for tax deferrals granted under this
30 chapter before July 1, 2005.

31 NEW SECTION. Sec. 9. A new section is added to chapter 82.60 RCW
32 to read as follows:

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

1 (2) If, on the basis of a survey under RCW 82.60.070 or other
2 information, the department finds that an investment project is not
3 eligible for tax deferral under this chapter, a portion of deferred
4 taxes shall be immediately due and payable according to the following
5 schedule:

6	Year In Which	
7	Ineligibility Occurs	% of Deferred Taxes Due
8	1	100%
9	2	87.5%
10	3	75%
11	4	62.5%
12	5	50%
13	6	37.5%
14	7	25%
15	8	12.5%

16 (3) The department shall assess interest, but not penalties, on
17 amounts due under subsection (2) of this section. The interest shall
18 be assessed at the rate provided for delinquent taxes under chapter
19 82.32 RCW, retroactively to the date of deferral, and shall accrue
20 until the deferred taxes due are repaid. The debt for deferred taxes
21 is not extinguished by insolvency or other failure of the recipient.
22 Transfer of ownership does not terminate the deferral. The deferral is
23 transferred, subject to the new owner meeting the eligibility
24 requirements of this chapter, for the remaining periods of the
25 deferral, and the new owner agrees in writing to assume liability for
26 payment of any deferred taxes under subsection (2) of this section.
27 The original recipient of a deferral that is transferred is not
28 responsible for payment of any deferred tax under subsection (2) of
29 this section for periods subsequent to the transfer.

30 (4) This section applies to all investment projects eligible for
31 tax deferral under this chapter July 1, 2005, and thereafter.

32 (5) This section does not apply to, or authorize refunds for,
33 investment projects that are not eligible as of June 30, 2005, for tax
34 deferrals granted under this chapter before July 1, 2005.

1 **Sec. 10.** RCW 82.60.065 and 1995 1st sp.s. c 3 s 8 are each amended
2 to read as follows:

3 Except as provided in RCW 82.60.060, section 9 of this act, and
4 82.60.070:

5 (1) Taxes deferred under this chapter on the sale or use of labor
6 that is directly used in the construction of an investment project for
7 which a deferral has been granted under this chapter after June 11,
8 1986, and prior to July 1, 1994, need not be repaid.

9 (2) Taxes deferred under this chapter on an investment project for
10 which a deferral has been granted under this chapter after June 30,
11 1994, need not be repaid.

12 (3) Taxes deferred under this chapter need not be repaid on
13 machinery and equipment for lumber and wood products industries, and
14 sales of or charges made for labor and services, of the type which
15 qualifies for exemption under RCW 82.08.02565 or 82.12.02565 to the
16 extent the taxes have not been repaid before July 1, 1995.

17 **Sec. 11.** RCW 82.60.070 and 2004 c 25 s 7 are each amended to read
18 as follows:

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

23 (b) Each recipient of a deferral granted under this chapter after
24 June 30, 1994, shall file a complete (~~(an)~~) annual survey with the
25 department. If the economic benefits of the deferral are passed to a
26 lessee as provided in RCW 82.60.020(4), the lessee shall (~~agree to~~
27 ~~complete the~~) file a complete annual survey and the applicant is not
28 required to file a complete (~~the~~) annual survey. The survey is due
29 by March 31st of the year following the calendar year in which the
30 investment project is certified by the department as having been
31 operationally complete and the seven succeeding calendar years. The
32 department may extend the due date for timely filing annual surveys
33 under this section, as provided in section 1 of this act. The survey
34 shall include the amount of tax deferred, the number of new products or
35 research projects by general classification, and the number of
36 trademarks, patents, and copyrights associated with activities at the

1 investment project. The survey shall also include the following
2 information for employment positions in Washington:

3 (i) The number of total employment positions;

4 (ii) Full-time, part-time, and temporary employment positions as a
5 percent of total employment;

6 (iii) The number of employment positions according to the following
7 wage bands: Less than thirty thousand dollars; thirty thousand dollars
8 or greater, but less than sixty thousand dollars; and sixty thousand
9 dollars or greater. A wage band containing fewer than three
10 individuals may be combined with another wage band; and

11 (iv) The number of employment positions that have employer-provided
12 medical, dental, and retirement benefits, by each of the wage bands.

13 (c) The department may request additional information necessary to
14 measure the results of the deferral program, to be submitted at the
15 same time as the survey.

16 (d) All information collected under this subsection, except the
17 amount of the tax deferral taken, is deemed taxpayer information under
18 RCW 82.32.330 (~~and is not disclosable~~). Information on the amount of
19 tax deferral taken is not subject to the confidentiality provisions of
20 RCW 82.32.330 and may be disclosed to the public upon request.

21 (e) The department shall use the information from this section to
22 prepare summary descriptive statistics by category. No fewer than
23 three taxpayers shall be included in any category. The department
24 shall report these statistics to the legislature each year by September
25 1st.

26 (f) The department shall also use the information to study the tax
27 deferral program authorized under this chapter. The department shall
28 report to the legislature by December 1, 2009. The report shall
29 measure the effect of the program on job creation, the number of jobs
30 created for residents of eligible areas, company growth, the
31 introduction of new products, the diversification of the state's
32 economy, growth in research and development investment, the movement of
33 firms or the consolidation of firms' operations into the state, and
34 such other factors as the department selects.

35 ~~(2)((a) If, on the basis of a survey under this section or other
36 information, the department finds that an investment project is not
37 eligible for tax deferral under this chapter, the amount of deferred
38 taxes outstanding for the project shall be immediately due.~~

1 ~~(b))~~) If a recipient of the deferral fails to file a complete
2 ~~((the))~~ annual survey required under subsection (1) of this section by
3 the date due, ~~((twelve and one half percent of the deferred tax))~~ the
4 portion of deferred taxes that need not be repaid for the previous
5 calendar year according to the schedule in section 9(2) of this act
6 shall be immediately due and payable. If the economic benefits of the
7 deferral are passed to a lessee as provided in RCW 82.60.020(4), the
8 lessee shall be responsible for payment to the extent the lessee has
9 received the economic benefit. The department shall assess interest,
10 but not penalties, on the deferred taxes payable under this subsection.
11 The interest shall be assessed at the rate provided for delinquent
12 excise taxes under chapter 82.32 RCW, retroactively to the date of
13 deferral, and shall accrue until the deferred taxes are repaid.

14 ~~(3) ((Notwithstanding any other subsection of this section,~~
15 ~~deferred taxes need not be repaid on machinery and equipment for lumber~~
16 ~~and wood products industries, and sales of or charges made for labor~~
17 ~~and services, of the type which qualifies for exemption under RCW~~
18 ~~82.08.02565 or 82.12.02565 to the extent the taxes have not been repaid~~
19 ~~before July 1, 1995.~~

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

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

25 ~~(b) Machinery and equipment which at the time of first use would~~
26 ~~have qualified for exemption under RCW 82.12.02565.))~~ A recipient who
27 must repay deferred taxes under RCW 82.60.060(1) or section 9(2) of
28 this act because the department has found that an investment project is
29 not eligible for tax deferral under this chapter is no longer required
30 to file annual surveys under this section beginning on the date the
31 investment project is not eligible for tax deferral under this chapter.

32 **Sec. 12.** RCW 82.60.100 and 1987 c 49 s 1 are each amended to read
33 as follows:

34 Applications~~((, reports, and any other information))~~ received by
35 the department under this chapter shall not be confidential ~~((and shall~~
36 ~~be subject to disclosure))~~ under RCW 82.32.330.

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.60 RCW
2 to read as follows:

3 (1) Notwithstanding any other provision of this chapter, deferred
4 taxes need not be repaid on machinery and equipment for lumber and wood
5 products industries, and sales of or charges made for labor and
6 services, of the type which qualifies for exemption under RCW
7 82.08.02565 or 82.12.02565 to the extent the taxes have not been repaid
8 before July 1, 1995.

9 (2) Notwithstanding any other provision of this chapter, deferred
10 taxes on the following need not be repaid:

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

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

16 **Sec. 14.** RCW 82.04.4483 and 2004 c 25 s 1 are each amended to read
17 as follows:

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

23 (2) A person who partially or totally relocates a business from one
24 rural county to another rural county is eligible for any new qualifying
25 employment positions created as a result of the relocation but is not
26 eligible to receive credit for the jobs moved from one county to the
27 other.

28 (3)(a) To qualify for the credit, the qualifying activity of the
29 person must be conducted in a rural county and the new qualified
30 employment position must be located in the rural county.

31 (b) If an activity is conducted both from a rural county and
32 outside of a rural county, the credit is available if at least ninety
33 percent of the qualifying activity is conducted within a rural county.
34 If the qualifying activity is a service taxable activity, the place
35 where the work is performed is the place at which the activity is
36 conducted.

1 (4)(a) The credit under this section shall equal one thousand
2 dollars for each new qualified employment position created after
3 January 1, 2004, in an eligible area. A credit is earned for the
4 calendar year the person is hired to fill the position. Additionally
5 a credit is earned for each year the position is maintained over the
6 subsequent consecutive years, up to four years. The county must meet
7 the definition of a rural county at the time the position is filled.
8 If the county does not have a rural county status the following year or
9 years, the position is still eligible for the remaining years if all
10 other conditions are met.

11 (b) Participants who claimed credit under RCW 82.04.4456 for
12 qualified employment positions created before December 31, 2003, are
13 eligible to earn credit for each year the position is maintained over
14 the subsequent consecutive years, for up to four years, which four
15 years include any years claimed under RCW 82.04.4456. Those persons
16 who did not receive a credit under RCW 82.04.4456 before December 31,
17 2003, are not eligible to earn credit for qualified employment
18 positions created before December 31, 2003.

19 (c) Credit is authorized for new employees hired for new qualified
20 employment positions created on or after January 1, 2004. New
21 qualified employment positions filled by existing employees are
22 eligible for the credit under this section only if the position vacated
23 by the existing employee is filled by a new hire. A business that is
24 a sole proprietorship without any employees is equivalent to one
25 employee position and this type of business is eligible to receive
26 credit for one position.

27 (d) If a position is filled before July 1st, the position is
28 eligible for the full yearly credit for that calendar year. If it is
29 filled after June 30th, the position is eligible for half of the credit
30 for that calendar year.

31 (5) No application is necessary for the tax credit. The person
32 must keep records necessary for the department to verify eligibility
33 under this section. This information includes information relating to
34 description of qualifying activity conducted in the rural county and
35 outside the rural county by the person as well as detailed records on
36 positions and employees.

37 (6) Except as provided in subsection (9) of this section, if at any
38 time the department finds that a person is not eligible for tax credit

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

10 (7) The credit under this section may be ~~((used))~~ claimed against
11 any tax due under this chapter, but in no case may a credit earned
12 during one calendar year be carried over to be credited against taxes
13 incurred in a subsequent calendar year. A person is not eligible to
14 receive a credit under this section if the person is receiving credit
15 for the same position under chapter 82.62 RCW or RCW 82.04.44525 or is
16 taking a credit under this chapter for information technology help desk
17 services conducted from a rural county. No refunds may be granted for
18 credits under this section.

19 (8) Transfer of ownership does not affect credit eligibility.
20 However, the successive credits are available to the ~~((successor))~~ new
21 owner for remaining periods in the five years only if the eligibility
22 conditions of this section are met.

23 (9)(a) A person ~~((taking))~~ claiming tax credits under this section
24 shall ~~((make an))~~ file a complete annual ~~((report to))~~ survey with the
25 department. The survey is due by March 31st following any year in
26 which a credit is claimed. The department may extend the due date for
27 timely filing annual surveys under this section, as provided in section
28 1 of this act.

29 (b) The ~~((report))~~ survey shall ~~((be in a letter form and shall))~~
30 include the following information about the person: ~~((Number of~~
31 ~~positions for which credit is being claimed, type of position for which~~
32 ~~credit is being claimed,))~~

33 (i) Type of activity in which the person is engaged in the
34 county((,));

35 (ii) How long the person has been located in the county((, and));

36 (iii) Taxpayer name; and

37 (iv) Taxpayer registration number. ~~((The report must be filed by~~
38 ~~January 30th of each year for which credit was claimed during the~~

1 ~~previous year. Failure to file a report will not result in the loss of~~
2 ~~eligibility under this section. However, the department, through its~~
3 ~~research division, shall contact taxpayers who have not filed the~~
4 ~~report and obtain the data from the taxpayer or assist the taxpayer in~~
5 ~~the filing of the report, so that the data and information necessary to~~
6 ~~measure the program's effectiveness is maintained.))~~

7 (c) The survey shall also include the following information for
8 employment positions in Washington:

9 (i) The number of total employment positions;

10 (ii) Full-time, part-time, and temporary employment positions as a
11 percent of total employment;

12 (iii) The number of employment positions according to the following
13 wage bands: Less than thirty thousand dollars; thirty thousand dollars
14 or greater, but less than sixty thousand dollars; and sixty thousand
15 dollars or greater. A wage band containing fewer than three
16 individuals may be combined with another wage band; and

17 (iv) The number of employment positions that have employer-provided
18 medical, dental, and retirement benefits, by each of the wage bands.

19 (d) The department may request additional information necessary to
20 determine eligibility for the tax credit under this section, to be
21 submitted at the same time as the survey.

22 (e) All information collected under this subsection, except for the
23 total amount of the tax credit claimed under this section, is deemed
24 taxpayer information under RCW 82.32.330. The amount of tax credit
25 claimed is not subject to the confidentiality provisions of RCW
26 82.32.330, except that persons claiming a total of less than ten
27 thousand dollars of credit during the period covered by the survey may
28 request the department to treat the tax credit amount as confidential
29 under RCW 82.32.330.

30 (f) If a person fails to file a complete annual survey required
31 under this subsection (9) with the department by the due date or any
32 extension under section 1 of this act, the department shall declare the
33 amount of taxes against which the credit was claimed under this section
34 during the previous calendar year to be immediately due and payable.
35 The department shall assess interest, but not penalties, on the taxes
36 against which the credit was claimed. The interest shall be assessed
37 at the rate provided for delinquent excise taxes under chapter 82.32

1 RCW, retroactively to the date of deferral, and shall accrue until the
2 taxes against which the credit was claimed are repaid.

3 (g) The department shall use the information from this subsection
4 (9) to prepare summary descriptive statistics by category. No fewer
5 than three taxpayers may be included in any category. The department
6 shall report these statistics to the legislature each year by September
7 1st.

8 (10) As used in this section:

9 (a) "Computer software" has the meaning as defined in RCW 82.04.215
10 after June 30, 2004, and includes "software" as defined in RCW
11 82.04.215 before July 1, 2004.

12 (b) "Manufacturing" means the same as "to manufacture" under RCW
13 82.04.120. Manufacturing includes the activities of both manufacturers
14 and processors for hire.

15 (c) "Programming" means the activities that involve the creation or
16 modification of computer software, as that term is defined in this
17 chapter, and that are taxable as a service under RCW 82.04.290(2) or as
18 a retail sale under RCW 82.04.050.

19 (d) "Qualifying activity" means manufacturing of computer software
20 or programming.

21 (e) "Qualified employment position" means a permanent full-time
22 position doing programming of computer software or manufacturing of
23 computer software. This excludes administrative, professional,
24 service, executive, and other similar positions. If an employee is
25 either voluntarily or involuntarily separated from employment, the
26 employment position is considered filled on a full-time basis if the
27 employer is either training or actively recruiting a replacement
28 employee. Full-time means a position for at least thirty-five hours a
29 week.

30 (f) "Rural county" means the same as in RCW 82.14.370.

31 (11) No credit may be taken or accrued under this section on or
32 after January 1, 2011.

33 (12) This section expires January 1, 2011.

34 **Sec. 15.** RCW 82.04.4484 and 2004 c 25 s 2 are each amended to read
35 as follows:

36 (1) Subject to the limits and provisions of this section, a credit

1 is authorized against the tax otherwise due under this chapter for
2 persons engaged in a rural county in the business of providing
3 information technology help desk services to third parties.

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

6 (3) The amount of the tax credit for persons engaged in the
7 activity of providing information technology help desk services in
8 rural counties shall be equal to one hundred percent of the amount of
9 tax due under this chapter that is attributable to providing the
10 services from the rural county. In order to qualify for the credit
11 under this subsection, the county must meet the definition of rural
12 county at the time the person begins to conduct qualifying business in
13 the county.

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

18 (5) Except as provided in subsection (8) of this section, if at any
19 time the department finds that a person is not eligible for tax credit
20 under this section, the amount of taxes for which a credit ((has been
21 used)) was claimed is immediately due and payable. The department
22 shall assess interest, but not penalties, on the ((credited)) taxes for
23 which ((the person is not eligible)) credit was claimed. The interest
24 shall be assessed at the rate provided for delinquent excise taxes
25 under chapter 82.32 RCW, ((shall be assessed)) retroactively to the
26 date the tax credit was ((taken)) claimed, and shall accrue until the
27 taxes for which a credit ((has been used)) was claimed are repaid.

28 (6) The credit under this section may be ((used)) claimed against
29 any tax due under this chapter, but in no case may a credit earned
30 during one calendar year be carried over to be credited against taxes
31 incurred in a subsequent calendar year. No refunds may be granted for
32 credits under this section.

33 (7) Transfer of ownership does not affect credit eligibility.
34 However, the credit is available to the ((successor)) new owner only if
35 the eligibility conditions of this section are met.

36 (8)(a) A person ((taking)) claiming tax credits under this section
37 shall ((make an)) file a complete annual ((report to)) survey with the
38 department. The survey is due by March 31st following any year in

1 which a credit is claimed. The department may extend the due date for
2 timely filing annual surveys under this section, as provided in section
3 1 of this act.

4 (b) The ~~((report shall be in a letter form and))~~ survey shall
5 include the following information about the person:

6 (i) Type of activity in which the person is engaged in the
7 county~~((τ))~~;

8 (ii) Total number of employees in the rural county~~((τ))~~;

9 (iii) How long the person has been located in the county~~((τ and))~~;

10 (iv) Taxpayer name; and

11 (v) Taxpayer registration number. ~~((The report must be filed by~~
12 January 30th of each year for which credit was claimed during the
13 previous year. Failure to file a report will not result in the loss of
14 eligibility under this section. However, the department, through its
15 research division, shall contact taxpayers who have not filed the
16 report and obtain the data from the taxpayer or assist the taxpayer in
17 the filing of the report, so that the data and information necessary to
18 measure the program's effectiveness is maintained.))

19 (c) The survey shall also include the following information for
20 employment positions in Washington:

21 (i) The number of total employment positions;

22 (ii) Full-time, part-time, and temporary employment positions as a
23 percent of total employment;

24 (iii) The number of employment positions according to the following
25 wage bands: Less than thirty thousand dollars; thirty thousand dollars
26 or greater, but less than sixty thousand dollars; and sixty thousand
27 dollars or greater. A wage band containing fewer than three
28 individuals may be combined with another wage band; and

29 (iv) The number of employment positions that have employer-provided
30 medical, dental, and retirement benefits, by each of the wage bands.

31 (d) The department may request additional information necessary to
32 determine eligibility for the tax credit under this section, to be
33 submitted at the same time as the survey.

34 (e) All information collected under this subsection, except for the
35 amount of the tax credit claimed, is deemed taxpayer information under
36 RCW 82.32.330. The amount of tax credit claimed is not subject to the
37 confidentiality provisions of RCW 82.32.330, except that persons

1 claiming less than ten thousand dollars of credit during the period
2 covered by the survey may request the department to treat the tax
3 credit amount as confidential under RCW 82.32.330.

4 (f) If a person fails to file a complete annual survey required
5 under this subsection (8) with the department by the due date or any
6 extension under section 1 of this act, the department shall declare the
7 amount of taxes against which a credit was claimed under this section
8 during the previous calendar year to be immediately due and payable.
9 The department shall assess interest, but not penalties, on the taxes
10 against which the credit was claimed. The interest shall be assessed
11 at the rate provided for delinquent excise taxes under chapter 82.32
12 RCW, retroactively to the date of deferral, and shall accrue until the
13 taxes against which the credit was claimed are repaid.

14 (g) The department shall use the information from this subsection
15 (8) to prepare summary descriptive statistics by category. No fewer
16 than three taxpayers may be included in any category. The department
17 shall report these statistics to the legislature each year by September
18 1st.

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 the same as in RCW 82.14.370.

29 (10) This section expires January 1, 2011.

30 **Sec. 16.** RCW 82.32.535 and 2003 c 149 s 11 are each amended to
31 read as follows:

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

36 (2)(a) A person who reports taxes under RCW 82.04.240(2) or who
37 claims an exemption or credit under RCW 82.04.426, 82.08.965,

1 82.12.965, 82.08.970, 82.12.970, 82.04.448, or 84.36.645, shall (~~make~~
2 ~~an annual~~) report information to the department by filing a complete
3 annual survey detailing employment, wages, and employer-provided health
4 and retirement benefits per job at the manufacturing site. The
5 (~~report~~) survey shall not include names of employees. The (~~report~~)
6 survey shall also detail employment by the total number of full-time,
7 part-time, and temporary positions. The first (~~report~~) survey filed
8 under this subsection shall include employment, wage, and benefit
9 information for the twelve-month period immediately before first use of
10 a preferential tax rate under RCW 82.04.240(2), or claim of a tax
11 exemption or credit under RCW 82.04.426, 82.08.965, 82.12.965,
12 82.08.970, 82.12.970, 82.04.448, or 84.36.645. The (~~report~~) survey
13 is due by March 31st following any year in which a preferential tax
14 rate under RCW 82.04.240(2) is used, or tax exemption or credit under
15 RCW 82.04.426, 82.08.965, 82.12.965, 82.08.970, 82.12.970, 82.04.448,
16 or 84.36.645 is (~~taken~~) claimed. The department may extend the due
17 date for timely filing annual surveys under this section, as provided
18 in section 1 of this act. This information is not subject to the
19 confidentiality provisions of RCW 82.32.330 (~~and may be disclosed to~~
20 ~~the public upon request~~)).

21 (b) If a person fails to (~~submit an~~) file with the department a
22 complete annual (~~report~~) survey under (a) of this subsection by the
23 due date or any extension under section 1 of this act, the department
24 shall declare the amount of taxes exempted or credited for (~~that~~) the
25 previous calendar year to be immediately due and payable. Excise taxes
26 payable under this subsection are subject to interest, but not
27 penalties, at the rate provided for delinquent excise taxes, as
28 provided under this chapter. The department shall assess interest, but
29 not penalties, on the taxes against which the credit was claimed. The
30 interest shall be assessed at the rate provided for delinquent excise
31 taxes under this chapter, retroactively to the date of exemption or
32 credit, and shall accrue until the taxes for which the exemption or
33 credit was claimed are repaid. This information is not subject to the
34 confidentiality provisions of RCW 82.32.330 (~~and may be disclosed to~~
35 ~~the public upon request~~)).

36 (3) By November 1st of the year occurring five years after the
37 effective date of (~~this act~~) chapter 149, Laws of 2003, and November
38 1st of the year occurring eleven years after the effective date of

1 ((this act)) chapter 149, Laws of 2003, the fiscal committees of the
2 house of representatives and the senate, in consultation with the
3 department, shall report to the legislature on the effectiveness of
4 chapter 149, Laws of 2003 in regard to keeping Washington competitive.
5 The report shall measure the effect of chapter 149, Laws of 2003 on job
6 retention, net jobs created for Washington residents, company growth,
7 diversification of the state's economy, cluster dynamics, and other
8 factors as the committees select. The reports shall include a
9 discussion of principles to apply in evaluating whether the legislature
10 should reenact any or all of the tax preferences in chapter 149, Laws
11 of 2003.

12 **Sec. 17.** RCW 82.32.545 and 2003 2nd sp.s. c 1 s 16 are each
13 amended to read as follows:

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

18 (2)(a) A person who reports taxes under RCW 82.04.260(13) or who
19 claims an exemption or credit under RCW 82.04.4461, 82.08.980,
20 82.12.980, 82.29A.137, 84.36.655, and 82.04.4463 shall ((make an
21 annual)) report information to the department by filing a complete
22 annual survey detailing employment, wages, and employer-provided health
23 and retirement benefits per job at the manufacturing site. The
24 ((report)) survey shall not include names of employees. The ((report))
25 survey shall also detail employment by the total number of full-time,
26 part-time, and temporary positions. The first ((report)) survey filed
27 under this subsection shall include employment, wage, and benefit
28 information for the twelve-month period immediately before first use of
29 a preferential tax rate under RCW 82.04.260(13), or claim of a tax
30 exemption or credit under RCW 82.04.4461, 82.08.980, 82.12.980,
31 82.29A.137, 84.36.655, and 82.04.4463. The ((report)) survey is due by
32 March 31st following any year in which a preferential tax rate under
33 RCW 82.04.260(13) is used, or tax exemption or credit under RCW
34 82.04.4461, 82.08.980, 82.12.980, 82.29A.137, 84.36.655, and 82.04.4463
35 is ((taken)) claimed. The department may extend the due date for
36 timely filing annual surveys under this section, as provided in section

1 1 of this act. This information is not subject to the confidentiality
2 provisions of RCW 82.32.330 (~~(and may be disclosed to the public upon~~
3 ~~request)~~).

4 (b) If a person fails to (~~submit an~~) file a complete annual
5 (~~report~~) survey with the department under (a) of this subsection by
6 the due date of the (~~report~~) survey or any extension under section 1
7 of this act, the department shall declare the amount of taxes exempted
8 or credited, or reduced in the case of the preferential business and
9 occupation tax rate, for (~~that~~) the previous calendar year to be
10 immediately due and payable. Excise taxes payable under this
11 subsection are subject to interest, but not penalties, at the rate
12 provided for delinquent excise taxes, as provided under this chapter.
13 The department shall assess interest, but not penalties, retroactively
14 to the date the exemption, credit, or preferential tax rate under RCW
15 82.04.260(13) was used. The interest shall be assessed at the rate
16 provided for delinquent excise taxes under this chapter, and shall
17 accrue until the taxes for which the exemption, credit, or preferential
18 tax rate was used are repaid. This information is not subject to the
19 confidentiality provisions of RCW 82.32.330 (~~(and may be disclosed to~~
20 ~~the public upon request)~~).

21 (3) By November 1, 2010, and by November 1, 2023, the fiscal
22 committees of the house of representatives and the senate, in
23 consultation with the department, shall report to the legislature on
24 the effectiveness of chapter 1, Laws of 2003 2nd sp. sess. in regard to
25 keeping Washington competitive. The report shall measure the effect of
26 chapter 1, Laws of 2003 2nd sp. sess. on job retention, net jobs
27 created for Washington residents, company growth, diversification of
28 the state's economy, cluster dynamics, and other factors as the
29 committees select. The reports shall include a discussion of
30 principles to apply in evaluating whether the legislature should
31 reenact any or all of the tax preferences in chapter 1, Laws of 2003
32 2nd sp. sess.

33 **Sec. 18.** RCW 82.32.560 and 2004 c 240 s 2 are each amended to read
34 as follows:

35 (1) For the purposes of this section, "electrolytic processing
36 business tax exemption" means the exemption (~~(and preferential tax~~
37 ~~rate)~~) under RCW 82.16.0421.

1 (2) The legislature finds that accountability and effectiveness are
2 important aspects of setting tax policy. In order to make policy
3 choices regarding the best use of limited state resources, the
4 legislature needs information to evaluate whether the stated goals of
5 legislation were achieved.

6 (3) The goals of the electrolytic processing business tax exemption
7 are:

8 (a) To retain family wage jobs by enabling electrolytic processing
9 businesses to maintain production of chlor-alkali and sodium chlorate
10 at a level that will preserve at least seventy-five percent of the jobs
11 that were on the payroll effective January 1, 2004; and

12 (b) To allow the electrolytic processing industries to continue
13 production in this state through 2011 so that the industries will be
14 positioned to preserve and create new jobs when the anticipated
15 reduction of energy costs occur.

16 (4)(a) A person who receives the benefit of an electrolytic
17 processing business tax exemption shall ~~((make an annual))~~ report
18 information to the department by filing a complete annual survey
19 detailing employment, wages, and employer-provided health and
20 retirement benefits per job at the manufacturing site. The ~~((report))~~
21 survey is due by March 31st following any year in which a tax exemption
22 is claimed ~~((or used))~~. The department may extend the due date for
23 timely filing annual surveys under this section, as provided in section
24 1 of this act. The ~~((report))~~ survey shall not include names of
25 employees. The ~~((report))~~ survey shall detail employment by the total
26 number of full-time, part-time, and temporary positions. The
27 ~~((report))~~ survey shall indicate the quantity of product produced at
28 the plant during the time period covered by the ~~((report))~~ survey. The
29 first ~~((report))~~ survey filed under this subsection shall include
30 employment, wage, and benefit information for the twelve-month period
31 immediately before first ~~((use))~~ claim of a tax exemption. Employment
32 ~~((reports))~~ surveys shall include data for actual levels of employment
33 and identification of the number of jobs affected by any employment
34 reductions that have been publicly announced at the time of the
35 ~~((report))~~ survey. Information in a ~~((report))~~ survey under this
36 section is not subject to the confidentiality provisions of RCW
37 82.32.330 and may be disclosed to the public upon request.

1 (b) If a person fails to submit ~~((an))~~ a complete annual ~~((report))~~
2 survey under (a) of this subsection by the due date of the ~~((report))~~
3 survey or any extension under section 1 of this act, the department
4 shall declare the amount of taxes exempted for ~~((that))~~ the previous
5 calendar year to be immediately due and payable. Public utility taxes
6 payable under this subsection are subject to interest, but not
7 penalties, at the rate provided for delinquent excise taxes, as
8 provided under this chapter. The department shall assess interest, but
9 not penalties, on the exemption under this subsection. The interest
10 shall be assessed at the rate provided for delinquent excise taxes
11 under this chapter, retroactively to the date the exemption was
12 claimed, and shall accrue until the taxes for which the exemption was
13 claimed are repaid. This information is not subject to the
14 confidentiality provisions of RCW 82.32.330 ~~((and may be disclosed to~~
15 ~~the public upon request))~~.

16 (5) By December 1, 2007, and by December 1, 2010, the fiscal
17 committees of the house of representatives and the senate, in
18 consultation with the department, shall report to the legislature on
19 the effectiveness of the tax incentive under RCW 82.16.0421. The
20 report shall measure the effect of the incentive on job retention for
21 Washington residents, and other factors as the committees select. The
22 report shall also discuss expected trends or changes to electricity
23 prices as they affect the industries that benefit from the incentives.

24 **Sec. 19.** RCW 82.32.570 and 2004 c 24 s 14 are each amended to read
25 as follows:

26 (1) For the purposes of this section, "smelter tax incentive" means
27 the preferential tax rate under RCW 82.04.2909, or an exemption or
28 credit under RCW 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5).

29 (2) The legislature finds that accountability and effectiveness are
30 important aspects of setting tax policy. In order to make policy
31 choices regarding the best use of limited state resources the
32 legislature needs information to evaluate whether the stated goals of
33 legislation were achieved.

34 (3) The goals of the smelter tax incentives are to retain family-
35 wage jobs in rural areas by:

36 (a) Enabling the aluminum industry to maintain production of

1 aluminum at a level that will preserve at least 75 percent of the jobs
2 that were on the payroll effective January 1, 2004, as adjusted for
3 employment reductions publicly announced before November 30, 2003; and

4 (b) Allowing the aluminum industry to continue producing aluminum
5 in this state through 2006 so that the industry will be positioned to
6 preserve and create new jobs when the anticipated reduction of energy
7 costs occurs.

8 (4)(a) An aluminum smelter receiving the benefit of a smelter tax
9 incentive shall (~~make an annual~~) report information to the department
10 by filing a complete annual survey detailing employment, wages, and
11 employer-provided health and retirement benefits per job at the
12 manufacturing site. The (~~report~~) survey is due by March 31st
13 following any year in which a tax incentive is claimed or used. The
14 department may extend the due date for timely filing annual surveys
15 under this section, as provided in section 1 of this act. The
16 (~~report~~) survey shall not include names of employees. The (~~report~~)
17 survey shall detail employment by the total number of full-time, part-
18 time, and temporary positions. The (~~report~~) survey shall indicate
19 the quantity of aluminum smelted at the plant during the time period
20 covered by the (~~report~~) survey. The first (~~report~~) survey filed
21 under this subsection shall include employment, wage, and benefit
22 information for the twelve-month period immediately before first use or
23 claim of a tax incentive. Employment (~~reports~~) surveys shall include
24 data for actual levels of employment and identification of the number
25 of jobs affected by any employment reductions that have been publicly
26 announced at the time of the (~~report~~) survey. Information in a
27 (~~report~~) survey under this section is not subject to the
28 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
29 public upon request.

30 (b) If a person fails to submit (~~an~~) a complete annual (~~report~~)
31 survey under (a) of this subsection by the due date of the (~~report~~)
32 survey or any extension under section 1 of this act, the department
33 shall declare the amount of taxes exempted or credited, or reduced in
34 the case of the preferential (~~business and occupation~~) tax rate under
35 RCW 82.04.2909, for (~~that~~) the previous calendar year to be
36 immediately due and payable. Excise taxes payable under this
37 subsection are subject to interest, but not penalties, at the rate
38 provided for delinquent excise taxes, as provided under this chapter.

1 The department shall assess interest, but not penalties, retroactively
2 to the date the exemption, credit, or preferential tax rate under RCW
3 82.04.2909 was used. The interest shall be assessed at the rate
4 provided for delinquent excise taxes under this chapter, and shall
5 accrue until the taxes for which the exemption, credit, or preferential
6 tax rate was used are repaid. This information is not subject to the
7 confidentiality provisions of RCW 82.32.330 (~~and may be disclosed to~~
8 ~~the public upon request~~)).

9 (5) By December 1, 2005, and by December 1, 2006, the fiscal
10 committees of the house of representatives and the senate, in
11 consultation with the department, shall report to the legislature on
12 the effectiveness of the smelter tax incentives and, by December 1,
13 2010, on the effectiveness of the incentives under RCW 82.04.4482 and
14 82.16.0498. The reports shall measure the effect of the tax incentives
15 on job retention for Washington residents and any other factors the
16 committees may select.

17 NEW SECTION. Sec. 20. Section 1 of this act applies retroactively
18 to annual surveys required under RCW 82.04.4483, 82.04.4484, 82.32.535,
19 82.32.545, 82.32.570, 82.32.560, 82.60.070, 82.62.050, and 82.63.020,
20 and due after December 31, 2004.

21 NEW SECTION. Sec. 21. Section 2 of this act takes effect January
22 1, 2006.

23 NEW SECTION. Sec. 22. Sections 1 and 3 through 19 of this act are
24 necessary for the immediate preservation of the public peace, health,
25 or safety, or support of the state government and its existing public
26 institutions, and take effect immediately.

27 NEW SECTION. Sec. 23. If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

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