

2 **ESHB 2663** - S COMM AMD  
3 By Committee and Ways & Means

4 ADOPTED 3/4/94

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that high-wage, high-  
8 skilled jobs are vital to the economic health of the state's citizens,  
9 and that targeted tax incentives will encourage the formation of high-  
10 wage, high-skilled jobs. The legislature also finds that tax  
11 incentives should be subject to the same rigorous requirements for  
12 efficiency and accountability as are other expenditure programs, and  
13 that tax incentives should therefore be focused to provide the greatest  
14 possible return on the state's investment.

15 The legislature also finds that high-technology businesses are a  
16 vital and growing source of high-wage, high-skilled jobs in this state,  
17 and that the high-technology sector is a key component of the state's  
18 effort to encourage economic diversification. However, the legislature  
19 finds that many high-technology businesses incur significant costs  
20 associated with research and development and pilot scale manufacturing  
21 many years before a marketable product can be produced, and that  
22 current state tax policy discourages the growth of these companies by  
23 taxing them long before they become profitable.

24 The legislature further finds that stimulating growth of high-  
25 technology businesses early in their development cycle, when they are  
26 turning ideas into marketable products, will build upon the state's  
27 established high-technology base, creating additional research and  
28 development jobs and subsequent manufacturing facilities.

29 For these reasons, the legislature hereby establishes a program of  
30 business and occupation tax credits for qualified research and  
31 development expenditures. The legislature also hereby establishes a  
32 tax deferral program for high-technology research and development and  
33 pilot scale manufacturing facilities. The legislature declares that  
34 these limited programs serve the vital public purpose of creating  
35 employment opportunities in this state. The legislature further  
36 declares its intent to create a contract within the meaning of Article

1 I, section 23 of the state Constitution as to those businesses that  
2 make capital investments in consideration of the tax deferral program  
3 established in this chapter.

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

6 (1) In computing the tax imposed under this chapter, a credit is  
7 allowed for each person whose research and development spending during  
8 the year in which the credit is claimed exceeds 0.92 percent of the  
9 person's taxable amount during the same calendar year.

10 (2) The credit is equal to the greater of the amount of qualified  
11 research and development expenditures of a person or eighty percent of  
12 amounts received by a person other than a public educational or  
13 research institution in compensation for the conduct of qualified  
14 research and development, multiplied by the rate of 0.515 percent in  
15 the case of a nonprofit corporation or nonprofit association engaging  
16 within this state in research and development, and 2.5 percent for  
17 every other person.

18 (3) Any person entitled to the credit provided in subsection (2) of  
19 this section as a result of qualified research and development  
20 conducted under contract may assign all or any portion of the credit to  
21 the person contracting for the performance of the qualified research  
22 and development.

23 (4) The credit, including any credit assigned to a person under  
24 subsection (3) of this section, shall be taken against taxes due for  
25 the same calendar year in which the qualified research and development  
26 expenditures are incurred. The credit, including any credit assigned  
27 to a person under subsection (3) of this section, for calendar year  
28 1994 shall not exceed the lesser of one million dollars or the taxes  
29 otherwise due under this chapter for the period July 1, 1994 through  
30 December 31, 1994. The credit, including any credit assigned to a  
31 person under subsection (3) of this section, for each calendar year  
32 thereafter shall not exceed the lesser of two million dollars or the  
33 amount of tax otherwise due under this chapter for the calendar year.

34 (5) Any person taking the credit, including any credit assigned to  
35 a person under subsection (3) of this section, whose research and  
36 development spending during the calendar year in which the credit is  
37 claimed fails to exceed 0.92 percent of the person's taxable amount  
38 during the same calendar year shall be liable for payment of the

1 additional taxes represented by the amount of credit taken together  
2 with interest, but not penalties. Interest shall be due at the rate  
3 provided for delinquent excise taxes retroactively to the date the  
4 credit was taken until the taxes are paid. Any credit assigned to a  
5 person under subsection (3) of this section that is disallowed as a  
6 result of this section may be taken by the person who performed the  
7 qualified research and development subject to the limitations set forth  
8 in subsection (4) of this section.

9 (6) Any person claiming the credit, and any person assigning a  
10 credit as provided in subsection (3) of this section, shall file an  
11 affidavit form prescribed by the department which shall include the  
12 amount of the credit claimed, an estimate of the anticipated qualified  
13 research and development expenditures during the calendar year for  
14 which the credit is claimed, an estimate of the taxable amount during  
15 the calendar year for which the credit is claimed, and such additional  
16 information as the department may prescribe.

17 (7) A person claiming the credit shall agree to supply the  
18 department with information necessary to measure the results of the tax  
19 credit program for qualified research and development expenditures.

20 (8) For the purpose of this section:

21 (a) "Qualified research and development expenditures" means  
22 operating expenses, including wages, compensation of a proprietor or a  
23 partner in a partnership as determined under rules adopted by the  
24 department, benefits, supplies, and computer expenses, directly  
25 incurred in qualified research and development by a person claiming the  
26 credit provided in this section. The term does not include amounts  
27 paid to a person other than a public educational or research  
28 institution to conduct qualified research and development. Nor does  
29 the term include capital costs and overhead, such as expenses for land,  
30 structures, or depreciable property.

31 (b) "Qualified research and development" shall have the same  
32 meaning as in section 3 of this act.

33 (c) "Research and development spending" means qualified research  
34 and development expenditures plus eighty percent of amounts paid to a  
35 person other than a public educational or research institution to  
36 conduct qualified research and development.

37 (d) "Taxable amount" means the taxable amount subject to the tax  
38 imposed in this chapter required to be reported on the person's  
39 combined excise tax returns during the year in which the credit is

1 claimed, less any taxable amount for which a credit is allowed under  
2 RCW 82.04.440.

3 (9) This section shall expire July 1, 1997.

4 NEW SECTION. **Sec. 3.** Unless the context clearly requires  
5 otherwise, the definitions in this section apply throughout this  
6 chapter.

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

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

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

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

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

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

32 (7) "Eligible investment project" means that portion of an  
33 investment project which either initiates a new operation, or expands  
34 or diversifies a current operation by expanding, renovating, or  
35 equipping an existing facility with costs in excess of twenty-five  
36 percent of the true and fair value of the facility prior to  
37 improvement. The lessor or owner of the qualified building is not  
38 eligible for a deferral unless the underlying ownership of the

1 buildings, machinery, and equipment vests exclusively in the same  
2 person, or unless the lessor by written contract agrees to pass the  
3 economic benefit of the deferral to the lessee in the form of reduced  
4 rent payments.

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

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

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

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

21 (12) "Qualified buildings" means structures used for pilot scale  
22 manufacturing or qualified research and development, including plant  
23 offices and other facilities that are an essential or an integral part  
24 of a structure used for pilot scale manufacturing or qualifying  
25 research and development. If a building is used partly for pilot scale  
26 manufacturing or qualifying research and development, and partly for  
27 other purposes, the applicable tax deferral shall be determined by  
28 apportionment of the costs of construction under rules adopted by the  
29 department.

30 (13) "Qualified machinery and equipment" means fixtures, equipment,  
31 and support facilities that are an integral and necessary part of a  
32 pilot scale manufacturing or qualified research and development  
33 operation. "Qualified machinery and equipment" includes: Computers;  
34 software; data processing equipment; laboratory equipment,  
35 instrumentation, and other devices used in a process of experimentation  
36 to develop a new or improved pilot model, plant process, product,  
37 formula, invention, or similar property; manufacturing components such  
38 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;  
39 vats, tanks, and fermenters; operating structures; and all other

1 equipment used to control, monitor, or operate the machinery. For  
2 purposes of this chapter, qualified machinery and equipment must be  
3 either new to the taxing jurisdiction of the state or new to the  
4 certificate holder, except that used machinery and equipment may be  
5 treated as qualified machinery and equipment if the certificate holder  
6 either brings the machinery and equipment into Washington or makes a  
7 retail purchase of the machinery and equipment in Washington or  
8 elsewhere.

9 (14) "Qualified research and development" means research and  
10 development performed within this state in the fields of advanced  
11 computing, advanced materials, biotechnology, electronic device  
12 technology, and environmental technology.

13 (15) "Recipient" means a person receiving a tax deferral under this  
14 chapter.

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

29 NEW SECTION. **Sec. 4.** Application for deferral of taxes under this  
30 chapter must be made before July 1, 1997, and before initiation of  
31 construction of, or acquisition of equipment or machinery for the  
32 investment project. The application shall be made to the department in  
33 a form and manner prescribed by the department. The application shall  
34 contain information regarding the location of the investment project,  
35 the applicant's average employment in the state for the prior year,  
36 estimated or actual new employment related to the project, estimated or  
37 actual wages of employees related to the project, estimated or actual  
38 costs, time schedules for completion and operation, and other

1 information required by the department. The department shall rule on  
2 the application within sixty days.

3 Applicants for deferral of taxes under this chapter shall agree to  
4 supply the department with nonproprietary information necessary to  
5 measure the results of the tax deferral program for high-technology  
6 research and development and pilot scale manufacturing facilities.

7 NEW SECTION. **Sec. 5.** (1) Except as provided in subsection (2) of  
8 this section, the department shall issue a sales and use tax deferral  
9 certificate for state and local sales and use taxes due under chapters  
10 82.08, 82.12, and 82.14 RCW on each eligible investment project.

11 (2) No certificate may be issued for an investment project that has  
12 already received a deferral under chapters 82.60 or 82.61 RCW or this  
13 chapter, except that an investment project for qualified research and  
14 development that has already received a deferral may also receive an  
15 additional deferral certificate for adapting the investment project for  
16 use in pilot scale manufacturing.

17 (3) This section shall expire July 1, 1997.

18 NEW SECTION. **Sec. 6.** (1) Except as provided in subsections (2)  
19 and (3) of this section, a recipient shall begin paying taxes deferred  
20 under this chapter on December 31st of the third calendar year after  
21 the date certified by the department as the date on which the  
22 investment project has been operationally completed, or on December  
23 31st of the fifth calendar year after the certificate was granted,  
24 whichever is sooner. Subsequent annual payments shall be due on  
25 December 31st of the following four years with amounts of payment  
26 scheduled as follows:

27	Repayment Year	% of Deferred Tax Repaid
28	1	10%
29	2	15%
30	3	20%
31	4	25%
32	5	30%

33 (2) A recipient that is an institution recognized as a  
34 comprehensive cancer center by the national cancer institute before  
35 April 20, 1983, shall begin paying taxes deferred under this chapter on

1 December 31st of the third calendar year after the date certified by  
2 the department as the date on which the investment project has been  
3 operationally completed, or on December 31st of the fifth calendar year  
4 after the certificate was granted, whichever is sooner. Subsequent  
5 annual payments shall be due on December 31st of the following four  
6 years with amounts of payment scheduled as follows:

7	Repayment Year	% of Deferred Tax Repaid
8	1	10%
9	2	12%
10	3	14%
11	4	28%
12	5	36%

13 (3) A recipient of a tax deferral on an investment project for  
14 qualified research and development on, or pilot scale manufacturing of,  
15 a drug, device, or biological product that requires licensing by the  
16 federal food and drug administration under chapter 21, C.F.R., as  
17 amended, shall begin paying taxes deferred under this chapter on  
18 December 31st of the fifth calendar year after the date certified by  
19 the department as the date on which the investment project has been  
20 operationally completed, or on December 31st of the seventh calendar  
21 year after the certificate was granted, whichever is sooner.  
22 Subsequent annual payments shall be due on December 31st of the  
23 following five years with amounts of payment scheduled as follows:

24	Repayment Year	% of Deferred Tax Repaid
25	1	10%
26	2	10%
27	3	15%
28	4	20%
29	5	20%
30	6	25%

31 (4) The department may authorize an accelerated repayment schedule  
32 upon request of the recipient.

33 (5) Interest may not be charged on taxes deferred under this  
34 chapter for the period of deferral, although all other penalties and  
35 interest applicable to delinquent excise taxes may be assessed and



1 imposed for delinquent payments under this chapter. The debt for  
2 deferred taxes will not be extinguished by insolvency or other failure  
3 of the recipient.

4 NEW SECTION. **Sec. 7.** If an investment project is used for  
5 purposes other than qualified research and development or pilot scale  
6 manufacturing prior to repayment of the taxes deferred under this  
7 chapter, the amount of the deferred taxes outstanding for the project  
8 is immediately due.

9 NEW SECTION. **Sec. 8.** Chapter 82.32 RCW applies to the  
10 administration of this chapter.

11 NEW SECTION. **Sec. 9.** Applications and other information received  
12 by the department under this chapter are not confidential and are  
13 subject to disclosure.

14 NEW SECTION. **Sec. 10.** The department shall perform an assessment  
15 of the results of the tax credit and tax deferral programs authorized  
16 under chapters 82.60, 82.61, and 82.62 RCW and deliver a report on the  
17 assessment to the governor and the legislature by January 1, 1997. The  
18 assessments shall measure the effect of the programs on job creation,  
19 company growth, the introduction of new products, the diversification  
20 of the state's economy, growth in research and development investment,  
21 the movement of firms or the consolidation of firms' operations into  
22 the state, and such other factors as the department selects.

23 NEW SECTION. **Sec. 11.** Sections 1 and 3 through 9 of this act  
24 shall constitute a new chapter in Title 82 RCW.

25 NEW SECTION. **Sec. 12.** This act shall take effect July 1, 1994."

26 **ESHB 2663** - S COMM AMD  
27 By Committee and Ways & Means

28 ADOPTED 3/4/94

29 On page 1, line 4 of the title, after "facilities;" strike the  
30 remainder of the title and insert "adding a new section to chapter

1 82.04 RCW; adding a new chapter to Title 82 RCW; creating a new  
2 section; and providing an effective date."

--- **END** ---