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**SUBSTITUTE SENATE BILL 5168**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators T. Sheldon, Rasmussen, Swecker, Franklin, Hargrove, Honeyford, Patterson, Morton, Haugen, Benton, Goings, Snyder, Zarelli and McCaslin)

Read first time 02/23/1999.

1 AN ACT Relating to distressed area programs; amending RCW  
2 82.14.370, 82.60.020, 82.60.040, 82.60.070, 82.62.010, 82.62.030,  
3 82.08.820, 82.12.820, and 82.08.02565; adding new sections to chapter  
4 82.04 RCW; adding a new section to chapter 82.62 RCW; adding a new  
5 section to chapter 82.08 RCW; adding a new section to chapter 82.12  
6 RCW; adding a new section to chapter 82.16 RCW; creating new sections;  
7 repealing RCW 82.60.045 and 82.60.047; providing an effective date; and  
8 providing expiration dates.

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

10 **LOCAL OPTION SALES AND USE TAX**

11 **Sec. 1.** RCW 82.14.370 and 1998 c 55 s 6 are each amended to read  
12 as follows:

13 (1) The legislative authority of a distressed county may impose a  
14 sales and use tax in accordance with the terms of this chapter. The  
15 tax is in addition to other taxes authorized by law and shall be  
16 collected from those persons who are taxable by the state under  
17 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
18 within the county. The rate of tax shall not exceed 0.04 percent of

1 the selling price in the case of a sales tax or value of the article  
2 used in the case of a use tax.

3       (2) The legislative authority of a distressed county may impose a  
4 sales and use tax in accordance with the terms of this chapter. The  
5 tax is in addition to other taxes authorized by law and shall be  
6 collected from those persons who are taxable by the state under  
7 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
8 within the county. The rate of tax shall not exceed 0.04 percent of  
9 the selling price in the case of a sales tax or value of the article  
10 used in the case of a use tax.

11       (3) The tax imposed under subsection (1) or (2) of this section  
12 shall be deducted from the amount of tax otherwise required to be  
13 collected or paid over to the department of revenue under chapter 82.08  
14 or 82.12 RCW. The department of revenue shall perform the collection  
15 of such taxes on behalf of the county at no cost to the county.

16       (~~(3)~~) (4) Moneys collected under subsection (1) of this section  
17 shall only be used for the purpose of financing public facilities in  
18 (~~rural counties~~) that county.

19       (~~(4)~~) (5) Moneys collected under this section shall only be used  
20 for the purpose of financing public facilities in rural counties. The  
21 public facility must be listed as an item in the officially adopted  
22 county overall economic development plan, or the economic development  
23 section of the county's comprehensive plan, or the comprehensive plan  
24 of a city or town located within the county for those counties planning  
25 under RCW 36.70A.040. For those counties that do not have an adopted  
26 overall economic development plan and do not plan under the growth  
27 management act, the public facility must be listed in the county's  
28 capital facilities plan or the capital facilities plan of a city or  
29 town located within the county. In implementing this section, the  
30 county shall consult with cities, towns, and port districts located  
31 within the county. For the purposes of this section, "public  
32 facilities" means bridges, roads, and domestic and industrial water,  
33 sanitary sewer, storm sewer, railroad, electricity, natural gas,  
34 buildings or structures, telecommunications infrastructure, and port  
35 facilities in the state of Washington.

36       (6) No tax may be collected under this section before July 1, 1998.  
37 No tax may be collected under this section by a county more than  
38 twenty-five years after the date that a tax is first imposed under this  
39 section.

1 ((~~(5)~~)) (7) For purposes of this section, "distressed county" means  
2 ((~~a county in which the average level of unemployment for the three~~  
3 ~~years before the year in which a tax is first imposed under this~~  
4 ~~section exceeds the average state unemployment for those years by~~  
5 ~~twenty percent~~)) an eligible area as defined in RCW 82.60.020.

6 **DISTRESSED AREA SALES AND USE TAX DEFERRAL**

7 **Sec. 2.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to read  
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

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

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

14 (3) "Eligible area" means(~~(:—(a) A county in which the average~~  
15 ~~level of unemployment for the three years before the year in which an~~  
16 ~~application is filed under this chapter exceeds the average state~~  
17 ~~unemployment for those years by twenty percent; (b) a county that has~~  
18 ~~a median household income that is less than seventy five percent of the~~  
19 ~~state median household income for the previous three years; (c) a~~  
20 ~~metropolitan statistical area, as defined by the office of federal~~  
21 ~~statistical policy and standards, United States department of commerce,~~  
22 ~~in which the average level of unemployment for the calendar year~~  
23 ~~immediately preceding the year in which an application is filed under~~  
24 ~~this chapter exceeds the average state unemployment for such calendar~~  
25 ~~year by twenty percent; (d) a designated community empowerment zone~~  
26 ~~approved under RCW 43.63A.700 or a county containing such a community~~  
27 ~~empowerment zone; (e) a town with a population of less than twelve~~  
28 ~~hundred persons in those counties that are not covered under (a) of~~  
29 ~~this subsection that are timber impact areas as defined in RCW~~  
30 ~~43.31.601; (f) a county designated by the governor as an eligible area~~  
31 ~~under RCW 82.60.047; or (g) a county that is contiguous to a county~~  
32 ~~that qualifies as an eligible area under (a) or (f) of this~~  
33 ~~subsection)) a county with fewer than one hundred persons per square  
34 mile as determined annually by the office of financial management and  
35 published by the department of revenue effective for the period July  
36 1st through June 30th.~~

37 (4)(a) "Eligible investment project" means(~~(:÷~~

1       ~~(i)) an investment project in an eligible area as defined in~~  
2 ~~subsection (3)((a), (b), (c), (e), or (f)) of this section((; or~~  
3       ~~(ii) That portion of an investment project in an eligible area as~~  
4 ~~defined in subsection (3)(d) or (g) of this section which is directly~~  
5 ~~utilized to create at least one new full-time qualified employment~~  
6 ~~position for each three hundred thousand dollars of investment on which~~  
7 ~~a deferral is requested in an application approved before July 1, 1994,~~  
8 ~~and for each seven hundred fifty thousand dollars of investment on~~  
9 ~~which a deferral is requested in an application approved after June 30,~~  
10 ~~1994)).~~

11       (b) The lessor/owner of a qualified building is not eligible for a  
12 deferral unless the underlying ownership of the buildings, machinery,  
13 and equipment vests exclusively in the same person, or unless the  
14 lessor by written contract agrees to pass the economic benefit of the  
15 deferral to the lessee in the form of reduced rent payments.

16       (c) ~~((For purposes of (a)(ii) of this subsection:~~

17       ~~(i) The department shall consider the entire investment project,~~  
18 ~~including any investment in machinery and equipment that otherwise~~  
19 ~~qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for~~  
20 ~~purposes of determining the portion of the investment project that~~  
21 ~~qualifies for deferral as an eligible investment project; and~~

22       ~~(ii) The number of new full-time qualified employment positions~~  
23 ~~created by an investment project shall be deemed to be reduced by the~~  
24 ~~number of full-time employment positions maintained by the recipient in~~  
25 ~~any other community in this state that are displaced as a result of the~~  
26 ~~investment project.~~

27       ~~(d)) "Eligible investment project" does not include any portion of~~  
28 ~~an investment project undertaken by a light and power business as~~  
29 ~~defined in RCW 82.16.010(5), other than that portion of a cogeneration~~  
30 ~~project that is used to generate power for consumption within the~~  
31 ~~manufacturing site of which the cogeneration project is an integral~~  
32 ~~part, or investment projects which have already received deferrals~~  
33 ~~under this chapter.~~

34       (5) "Investment project" means an investment in qualified buildings  
35 or qualified machinery and equipment, including labor and services  
36 rendered in the planning, installation, and construction of the  
37 project.

38       (6) "Manufacturing" means ~~((all activities of a commercial or~~  
39 ~~industrial nature wherein labor or skill is applied, by hand or~~

1 machinery, to materials so that as a result thereof a new, different,  
2 or useful substance or article of tangible personal property is  
3 produced for sale or commercial or industrial use and shall include the  
4 production or fabrication of specially made or custom made articles))  
5 the same as defined in RCW 82.04.120. "Manufacturing" also includes  
6 computer programming, the production of computer software, and other  
7 computer-related services, and the activities performed by research and  
8 development laboratories and commercial testing laboratories.

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

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

22 (~~(9)~~) (~~"Qualified employment position" means a permanent full-time~~  
23 ~~employee employed in the eligible investment project during the entire~~  
24 ~~tax year.~~

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

33 (~~((11))~~) (10) "Recipient" means a person receiving a tax deferral  
34 under this chapter.

35 (~~((12))~~) (11) "Research and development" means the development,  
36 refinement, testing, marketing, and commercialization of a product,  
37 service, or process before commercial sales have begun. As used in  
38 this subsection, "commercial sales" excludes sales of prototypes or

1 sales for market testing if the total gross receipts from such sales of  
2 the product, service, or process do not exceed one million dollars.

3 **Sec. 3.** RCW 82.60.040 and 1997 c 156 s 5 are each amended to read  
4 as follows:

5 (1) The department shall issue a sales and use tax deferral  
6 certificate for state and local sales and use taxes due under chapters  
7 82.08, 82.12, and 82.14 RCW on each eligible investment project that(~~(+~~  
8 ~~(a))~~) is located in an eligible area as defined in RCW  
9 82.60.020(~~((3) (a), (b), (c), (e), or (f))~~);

10 ~~(b) Is located in an eligible area as defined in RCW~~  
11 ~~82.60.020(3)(g) if seventy five percent of the new qualified employment~~  
12 ~~positions are to be filled by residents of a contiguous county that is~~  
13 ~~an eligible area as defined in RCW 82.60.020(3) (a) or (f); or~~

14 ~~(c) Is located in an eligible area as defined in RCW~~  
15 ~~82.60.020(3)(d) if seventy five percent of the new qualified employment~~  
16 ~~positions are to be filled by residents of a designated community~~  
17 ~~empowerment zone approved under RCW 43.63A.700 located within the~~  
18 ~~county in which the eligible investment project is located)).~~

19 (2) The department shall keep a running total of all deferrals  
20 granted under this chapter during each fiscal biennium.

21 (3) This section expires July 1, 2004.

22 **Sec. 4.** RCW 82.60.070 and 1995 1st sp.s. c 3 s 9 are each amended  
23 to read as follows:

24 (1) (~~(Each recipient of a deferral granted under this chapter prior~~  
25 ~~to July 1, 1994, shall submit a report to the department on December~~  
26 ~~31st of each year during the repayment period until the tax deferral is~~  
27 ~~repaid.)) Each recipient of a deferral granted under this chapter~~  
28 ~~after June 30, 1994, shall submit a report to the department on~~  
29 ~~December 31st of the year in which the investment project is certified~~  
30 ~~by the department as having been operationally completed, and on~~  
31 ~~December 31st of each of the seven succeeding calendar years. The~~  
32 ~~report shall contain information, as required by the department, from~~  
33 ~~which the department may determine whether the recipient is meeting the~~  
34 ~~requirements of this chapter. If the recipient fails to submit a~~  
35 ~~report or submits an inadequate report, the department may declare the~~  
36 ~~amount of deferred taxes outstanding to be immediately assessed and~~  
37 ~~payable.~~

1 (2) If, on the basis of a report under this section or other  
2 information, the department finds that an investment project is not  
3 eligible for tax deferral under this chapter (~~((for reasons other than~~  
4 ~~failure to create the required number of qualified employment~~  
5 ~~positions))), the amount of deferred taxes outstanding for the project  
6 shall be immediately due.~~

7 (3) (~~((If, on the basis of a report under this section or other~~  
8 ~~information, the department finds that an investment project for which~~  
9 ~~a deferral has been granted under this chapter prior to July 1, 1994,~~  
10 ~~has been operationally complete for three years and has failed to~~  
11 ~~create the required number of qualified employment positions, the~~  
12 ~~department shall assess interest, but not penalties, on the deferred~~  
13 ~~taxes for the project. The interest shall be assessed at the rate~~  
14 ~~provided for delinquent excise taxes, shall be assessed retroactively~~  
15 ~~to the date of deferral, and shall accrue until the deferred taxes are~~  
16 ~~repaid.~~

17 (4) ~~If, on the basis of a report under this section or other~~  
18 ~~information, the department finds that an investment project for which~~  
19 ~~a deferral has been granted under this chapter after June 30, 1994, has~~  
20 ~~been operationally complete for three years and has failed to create~~  
21 ~~the required number of qualified employment positions, the amount of~~  
22 ~~taxes not eligible for deferral shall be immediately due. The~~  
23 ~~department shall assess interest at the rate provided for delinquent~~  
24 ~~excise taxes, but not penalties, retroactively to the date of deferral.~~

25 (5) ~~If, on the basis of a report under this section or other~~  
26 ~~information, the department finds that an investment project qualifying~~  
27 ~~for deferral under RCW 82.60.040(1) (b) or (c) has failed to comply~~  
28 ~~with any requirement of RCW 82.60.045 for any calendar year for which~~  
29 ~~reports are required under subsection (1) of this section, twelve and~~  
30 ~~one-half percent of the amount of deferred taxes shall be immediately~~  
31 ~~due. The department shall assess interest at the rate provided for~~  
32 ~~delinquent excise taxes, but not penalties, retroactively to the date~~  
33 ~~of deferral.~~

34 (6)) ~~Notwithstanding any other subsection of this section,~~  
35 ~~deferred taxes need not be repaid on machinery and equipment for lumber~~  
36 ~~and wood products industries, and sales of or charges made for labor~~  
37 ~~and services, of the type which qualifies for exemption under RCW~~  
38 ~~82.08.02565 or 82.12.02565 to the extent the taxes have not been repaid~~  
39 ~~before July 1, 1995.~~

1       (~~(7)~~) (4) Notwithstanding any other subsection of this section,  
2 deferred taxes on the following need not be repaid:

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

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

8                   **DISTRESSED AREA BUSINESS AND OCCUPATION TAX JOB CREDIT**

9       **Sec. 5.** RCW 82.62.010 and 1996 c 290 s 5 are each amended to read  
10 as follows:

11       Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

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

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

16       (3) "Eligible area" means(~~(:—(a) A county in which the average~~  
17 ~~level of unemployment for the three years before the year in which an~~  
18 ~~application is filed under this chapter exceeds the average state~~  
19 ~~unemployment for those years by twenty percent; (b) a county that has~~  
20 ~~a median household income that is less than seventy five percent of the~~  
21 ~~state median household income for the previous three years; (c) a~~  
22 ~~metropolitan statistical area, as defined by the office of federal~~  
23 ~~statistical policy and standards, United States department of commerce,~~  
24 ~~in which the average level of unemployment for the calendar year~~  
25 ~~immediately preceding the year in which an application is filed under~~  
26 ~~this chapter exceeds the average state unemployment for such calendar~~  
27 ~~year by twenty percent; (d) a designated community empowerment zone~~  
28 ~~approved under RCW 43.63A.700; or (e) subcounty areas in those counties~~  
29 ~~that are not covered under (a) of this subsection that are timber~~  
30 ~~impact areas as defined in RCW 43.31.601)) an area as defined in RCW  
31 82.60.020.~~

32       (4)(a) "Eligible business project" means manufacturing or research  
33 and development activities which are conducted by an applicant in an  
34 eligible area at a specific facility, provided the applicant's average  
35 full-time qualified employment positions at the specific facility will  
36 be at least fifteen percent greater in the year for which the credit is  
37 being sought than the applicant's average full-time qualified



1 employment positions at the same facility in the immediately preceding  
2 year.

3 (b) "Eligible business project" does not include any portion of a  
4 business project undertaken by a light and power business as defined in  
5 RCW 82.16.010(5) or that portion of a business project creating  
6 qualified full-time employment positions outside an eligible area or  
7 those recipients of a sales tax deferral under chapter 82.61 RCW.

8 (5) "Manufacturing" means (~~all activities of a commercial or~~  
9 ~~industrial nature wherein labor or skill is applied, by hand or~~  
10 ~~machinery, to materials so that as a result thereof a new, different,~~  
11 ~~or useful substance or article of tangible personal property is~~  
12 ~~produced for sale or commercial or industrial use and shall include the~~  
13 ~~production or fabrication of specially made or custom made articles~~)  
14 the same as defined in RCW 82.04.120. "Manufacturing" also includes  
15 computer programming, the production of computer software, and other  
16 computer-related services, and the activities performed by research and  
17 development laboratories and commercial testing laboratories.

18 (6) "Person" has the meaning given in RCW 82.04.030.

19 (7) "Qualified employment position" means a permanent full-time  
20 employee employed in the eligible business project during the entire  
21 tax year.

22 (8) "Tax year" means the calendar year in which taxes are due.

23 (9) "Recipient" means a person receiving tax credits under this  
24 chapter.

25 (10) "Research and development" means the development, refinement,  
26 testing, marketing, and commercialization of a product, service, or  
27 process before commercial sales have begun. As used in this  
28 subsection, "commercial sales" excludes sales of prototypes or sales  
29 for market testing if the total gross receipts from such sales of the  
30 product, service, or process do not exceed one million dollars.

31 **Sec. 6.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to read  
32 as follows:

33 (1) A person shall be allowed a credit against the tax due under  
34 chapter 82.04 RCW as provided in this section. (~~For an application~~  
35 ~~approved before January 1, 1996, the credit shall equal one thousand~~  
36 ~~dollars for each qualified employment position directly created in an~~  
37 ~~eligible business project. For an application approved on or after~~  
38 ~~January 1, 1996, the credit shall equal two thousand dollars for each~~

1 ~~qualified employment position directly created in an eligible business~~  
2 ~~project. For an application approved on or after July 1, 1997,)) The~~  
3 credit shall equal: (a) Four thousand dollars for each qualified  
4 employment position with wages and benefits greater than forty thousand  
5 dollars annually that is directly created in an eligible business(~~(-~~  
6 ~~For an application approved on or after July 1, 1997, the credit shall~~  
7 ~~equal)) and (b) two thousand dollars for each qualified employment~~  
8 position with wages and benefits less than or equal to forty thousand  
9 dollars annually that is directly created in an eligible business.

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

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

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

26

## SOFTWARE

27 NEW SECTION. **Sec. 7.** It is the intent of the legislature to  
28 attract and retain technology-based businesses in distressed counties.  
29 Section 8 of this act provides a tax incentive to those businesses that  
30 develop or manufacture software in distressed counties. Section 9 of  
31 this act provides a tax incentive to those businesses that are engaged  
32 in the business of providing technical support services from distressed  
33 counties. Sections 12 and 13 of this act provide a sales and use tax  
34 exemption for buildings and equipment used by technical support service  
35 businesses. Encouragement of these types of business will stimulate  
36 the information technology industry and be of benefit to the state  
37 economy in general. To further the impact and benefit of this program,

1 this incentive is limited to those counties of the state that are  
2 characterized by unemployment or low income. The legislature finds  
3 that providing this targeted incentive will both increase its  
4 effectiveness and create a high technology work force in distressed  
5 counties.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.04 RCW  
7 to read as follows:

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

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

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

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

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

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

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

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

10 (d) A person that has engaged in qualifying activities in the  
11 distressed county before the effective date of this section qualifies  
12 for the credit under this section for positions created and filled  
13 after the effective date of this section.

14 (5) 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. This information includes information relating to  
17 description of qualifying activity engaged in the distressed county and  
18 outside the distressed county by the person as well as detailed records  
19 on positions and employees. The department shall, in consultation with  
20 a representative group of affected taxpayers, develop a method of  
21 segregating activity and related income so that those persons who  
22 engage in multiple activities can determine eligibility for credit  
23 under this section.

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

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

1 the credit under section 9 of this act. No refunds may be granted for  
2 credits under this section.

3 (8) County eligibility under this section shall be based on the  
4 same list as published by the department under chapter 82.60 RCW. The  
5 eligibility period is from July 1st of each year to June 30th of the  
6 next year.

7 (9) A person taking tax credits under this section shall make an  
8 annual report to the department. The report shall be in a letter form  
9 and shall include the following information: Number of positions for  
10 which credit is being claimed, type of position for which credit is  
11 being claimed, type of activity in which the person is engaged in the  
12 county, and how long the person has been located in the county. The  
13 report must be filed by January 30th of each year for which credit was  
14 claimed during the previous year.

15 (10) Transfer of ownership does not affect credit eligibility;  
16 however, the credit is available to the successor for remaining periods  
17 in the seven years only if the eligibility conditions of this section  
18 are met.

19 (11) As used in this section:

20 (a) "Distressed county" means an eligible area as defined in RCW  
21 82.60.020.

22 (b) "Manufacturing" means the same as "to manufacture" under RCW  
23 82.04.120. Manufacturing includes the activities of both manufacturers  
24 and processors for hire.

25 (c) "Programming" means the activities that involve the creation or  
26 modification of software, as that term is defined in this chapter, and  
27 that are taxable as "service and other" under RCW 82.04.290(2) or  
28 retail under RCW 82.04.050.

29 (d) "Qualifying activity" means manufacturing or programming of  
30 software.

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

39 (f) "Software" has the same meaning as defined in this chapter.

1 **HELP DESK SERVICES**

2 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW  
3 to read as follows:

4 (1) Subject to the limits and provisions of this section, a credit  
5 is authorized against the tax otherwise due under this chapter for  
6 persons engaged in a distressed county in the business of providing  
7 information technology help desk services to third parties.

8 (2) To qualify for the credit, the help desk services must be  
9 conducted from a distressed county.

10 (3)(a) For the first eighty-four months in which the person is  
11 engaged in the activity of providing information technology help desk  
12 services in the distressed county, the amount of the credit shall be  
13 equal to one hundred percent of the amount of tax due under this  
14 chapter that is attributable to providing the services from the  
15 distressed county. In order to qualify for the credit under this  
16 subsection (3)(a), the county must meet the definition of "distressed  
17 county" at the time the person begins to conduct qualifying business in  
18 the county. If the county subsequently does not qualify for distressed  
19 county status, the person may continue to take the credit for the  
20 remaining time in the eighty-four months if all other conditions are  
21 met. A person who locates in a county during a period of time for  
22 which the county does not meet the distressed county status is not  
23 eligible to receive the credit under this subsection (3)(a).

24 (b) A person who is not eligible for the credit under (a) of this  
25 subsection is potentially eligible for credit under this subsection  
26 (3)(b). If the person is engaged in the activity of providing  
27 information technology help desk services in a distressed county, the  
28 amount of the credit shall equal sixty-eight percent of the amount of  
29 tax due under this chapter that is attributable to providing the  
30 service from the distressed county. In order to qualify for the credit  
31 under this subsection, the county must meet the definition of  
32 "distressed county" during the period of time for which the credit is  
33 being claimed. A person is not eligible for a credit under this  
34 subsection (3)(b) for activity conducted during any period of time the  
35 county does not have a distressed county status.

36 (c) A person who that has engaged in providing information  
37 technology help desk services in the distressed county before the  
38 effective date of this section qualifies for the credit under (a) of

1 this subsection for any remaining time in the eighty-four months, after  
2 which time the person is potentially eligible for the credit under (b)  
3 of this subsection. A person who has engaged in providing information  
4 technology help desk services in the distressed county before the  
5 effective date of this section for more than eighty-four months is  
6 potentially eligible for the credit under (b) of this subsection.

7 (4) No application is necessary for the tax credit. The person  
8 must keep records necessary for the department to verify eligibility  
9 under this section. These records include information relating to  
10 description of activity engaged in a distressed county by the person.

11 (5) If at any time the department finds that a person is not  
12 eligible for tax credit under this section, the amount of taxes for  
13 which a credit has been used is immediately due. The department shall  
14 assess interest, but not penalties, on the credited taxes for which the  
15 person is not eligible. The interest shall be assessed at the rate  
16 provided for delinquent excise taxes under chapter 82.32 RCW, shall be  
17 assessed retroactively to the date the tax credit was taken, and shall  
18 accrue until the taxes for which a credit has been used are repaid.

19 (6) The credit under this section may be used against any tax due  
20 under this chapter, but in no case may a credit earned during one  
21 calendar year be carried over to be credited against taxes incurred in  
22 a subsequent calendar year. A person is not eligible to receive a  
23 credit under this section if the person is receiving credit under  
24 section 8 of this act or RCW 82.04.44525 or chapter 82.62 RCW. No  
25 refunds may be granted for credits under this section.

26 (7) County eligibility under this section shall be based on the  
27 same list as published by the department under chapter 82.60 RCW. The  
28 eligibility period is from July 1st of each year to June 30th of the  
29 next year.

30 (8) A person taking tax credits under this section shall make an  
31 annual report to the department. The report shall be in a letter form  
32 and shall include the following information: Type of activity in which  
33 the person is engaged in the county, number of employees in the  
34 distressed county, and how long the person has been located in the  
35 county. The report must be filed by January 30th of each year for  
36 which credit was claimed during the previous year.

37 (9) Transfer of ownership does not affect credit eligibility;  
38 however, the credit is available to the successor only if the  
39 eligibility conditions of this section are met.

1 (10) As used in this section:

2 (a) "Distressed county" means an eligible area as defined in RCW  
3 82.60.020.

4 (b) "First eighty-four months" means the eighty-four months of  
5 operation in a county following commencement of business activity.  
6 Business activity is deemed to commence upon the act of engaging in the  
7 business of providing the help desk services from the county.

8 (c) "Information technology help desk services" means the following  
9 services performed using electronic and telephonic communication:

10 (i) Software maintenance;

11 (ii) Software diagnostics and troubleshooting;

12 (iii) Software installation;

13 (iv) Software repair;

14 (v) Software information and training; and

15 (vi) Software upgrade.

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.62 RCW  
17 to read as follows:

18 A person is not eligible to receive a credit under this chapter if  
19 the person is receiving credit for the same position under section 8 of  
20 this act or RCW 82.04.44525 or is receiving a credit under section 9 of  
21 this act.

22 NEW SECTION. **Sec. 11.** The following acts or parts of acts are  
23 each repealed:

24 (1) RCW 82.60.045 (Eligible projects--Additional requirements) and  
25 1995 1st sp.s. c 3 s 7 & 1994 sp.s. c 1 s 4; and

26 (2) RCW 82.60.047 (Governor designation of county as eligible  
27 area--Natural disaster, business closure, military base closure, mass  
28 layoff) and 1994 sp.s. c 1 s 9.

29 **SALES AND USE TAX EXEMPTION FOR HELP DESKS**

30 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.08 RCW  
31 to read as follows:

32 (1) The following definitions apply throughout this section and  
33 section 13 of this act, unless the context requires otherwise.



1 (a) "Building" means a structure with walls and a roof, used to  
2 house machinery and equipment used exclusively at the eligible facility  
3 and/or used to house personnel who staff the eligible facility.

4 (b) "Distressed county" means an eligible area as defined in RCW  
5 82.60.020.

6 (c) "Eligible facility" means an information technology help desk  
7 services facility located in a distressed county.

8 (d) "Equipment" means fixtures and devices that are integral and  
9 necessary to the operation of the eligible facility, including tangible  
10 personal property that becomes an ingredient or component of a fixture  
11 or device, and including repair parts and replacement parts. The term  
12 includes office and administrative equipment that is integral and  
13 necessary to the operation of the eligible facility. "Equipment" does  
14 not include: (i) Hand-powered tools, such as hammers, screwdrivers,  
15 pliers, and saws; (ii) property with a useful life of less than one  
16 year, such as consumables, supplies, single-use items, and other  
17 property with a useful life of less than one year; or (iii)  
18 transmission equipment between facilities, such as cable, trunks,  
19 wires, satellites, or other such equipment.

20 (e) "Information technology help desk services facility" means a  
21 discrete physical location from which information technology help desk  
22 services, as defined in section 9 of this act, are provided to third  
23 parties.

24 (2) The tax levied by RCW 82.08.020 shall not apply to sales to a  
25 person engaged in the activity of providing information technology help  
26 desk services from an eligible facility of (a) equipment used  
27 exclusively at an eligible facility, and labor and services rendered in  
28 respect to installing, repairing, cleaning, altering, or improving the  
29 equipment; or (b) construction of a building, including materials, and  
30 including service and labor costs. Construction includes expansion of  
31 floor space but it does not include renovation, remodeling, or repair  
32 of existing space. The purchaser shall provide the seller with an  
33 exemption certificate in a form and manner prescribed by the  
34 department. The seller shall retain a copy of the certificate for the  
35 seller's files.

36 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.12 RCW  
37 to read as follows:

1 The provisions of this chapter shall not apply with respect to  
2 equipment used exclusively at an eligible facility and with respect to  
3 materials incorporated in the construction of an eligible facility.  
4 The seller shall retain a copy of the certificate for the seller's  
5 files. The definitions in section 12 of this act apply to this  
6 section.

7

## WAREHOUSES

8 **Sec. 14.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read  
9 as follows:

10 (1) Wholesalers or third-party warehouseers who own or operate  
11 warehouses or grain elevators and retailers who own or operate  
12 distribution centers, and who have paid the tax levied by RCW 82.08.020  
13 on:

14 (a) Material-handling and racking equipment, and labor and services  
15 rendered in respect to installing, repairing, cleaning, altering, or  
16 improving the equipment; or

17 (b) Construction of a warehouse or grain elevator, including  
18 materials, and including service and labor costs,  
19 are eligible for an exemption in the form of a remittance. The amount  
20 of the remittance is computed under subsection (3) of this section and  
21 is based on the state share of sales tax.

22 (2) For purposes of this section and RCW 82.12.820:

23 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

24 (b) "Construction" means the actual construction of a warehouse or  
25 grain elevator that did not exist before the construction began.  
26 "Construction" includes expansion if the expansion adds at least two  
27 hundred thousand square feet of additional space to an existing  
28 warehouse or additional storage capacity of at least one million  
29 bushels to an existing grain elevator. "Construction" does not include  
30 renovation, remodeling, or repair;

31 (c) "Department" means the department of revenue;

32 (d) "Distribution center" means a warehouse that is used  
33 exclusively by a retailer solely for the storage and distribution of  
34 finished goods to retail outlets of the retailer. "Distribution  
35 center" does not include a warehouse at which retail sales occur;

36 (e) "Finished goods" means tangible personal property intended for  
37 sale by a retailer or wholesaler. "Finished goods" does not include

1 agricultural products stored by wholesalers, third-party warehouses, or  
2 retailers if the storage takes place on the land of the person who  
3 produced the agricultural product. "Finished goods" does not include  
4 logs, minerals, petroleum, gas, or other extracted products stored as  
5 raw materials or in bulk;

6 (f) "Grain elevator" means a structure used for storage and  
7 handling of grain in bulk;

8 (g) "Material-handling equipment and racking equipment" means  
9 equipment in a warehouse or grain elevator that is primarily used to  
10 handle, store, organize, convey, package, or repackage finished goods.  
11 The term includes tangible personal property with a useful life of one  
12 year or more that becomes an ingredient or component of the equipment,  
13 including repair and replacement parts. The term does not include  
14 equipment in offices, lunchrooms, restrooms, and other like space,  
15 within a warehouse or grain elevator, or equipment used for  
16 nonwarehousing purposes. "Material-handling equipment" includes but is  
17 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
18 place units, cranes, hoists, mechanical arms, and robots; mechanized  
19 systems, including containers that are an integral part of the system,  
20 whose purpose is to lift or move tangible personal property; and  
21 automated handling, storage, and retrieval systems, including computers  
22 that control them, whose purpose is to lift or move tangible personal  
23 property; and forklifts and other off-the-road vehicles that are used  
24 to lift or move tangible personal property and that cannot be operated  
25 legally on roads and streets. "Racking equipment" includes, but is not  
26 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
27 pallets, and other containers and storage devices that form a necessary  
28 part of the storage system;

29 (h) "Person" has the meaning given in RCW 82.04.030;

30 (i) "Retailer" means a person who makes "sales at retail" as  
31 defined in chapter 82.04 RCW of tangible personal property;

32 (j) "Square footage" means the product of the two horizontal  
33 dimensions of each floor of a specific warehouse. The entire footprint  
34 of the warehouse shall be measured in calculating the square footage,  
35 including space that juts out from the building profile such as loading  
36 docks. "Square footage" does not mean the aggregate of the square  
37 footage of more than one warehouse at a location or the aggregate of  
38 the square footage of warehouses at more than one location;

1 (k) "Third-party warehouse" means a person taxable under RCW  
2 82.04.280(4);

3 (l) "Warehouse" means an enclosed building or structure in which  
4 finished goods are stored. A warehouse building or structure may have  
5 more than one storage room and more than one floor. Office space,  
6 lunchrooms, restrooms, and other space within the warehouse and  
7 necessary for the operation of the warehouse are considered part of the  
8 warehouse as are loading docks and other such space attached to the  
9 building and used for handling of finished goods. Landscaping and  
10 parking lots are not considered part of the warehouse. A storage yard  
11 is not a warehouse, nor is a building in which manufacturing takes  
12 place; and

13 (m) "Wholesaler" means a person who makes "sales at wholesale" as  
14 defined in chapter 82.04 RCW of tangible personal property, but  
15 "wholesaler" does not include a person who makes sales exempt under  
16 82.04.330.

17 (3)(a) A person claiming an exemption from state tax in the form of  
18 a remittance under this section must pay the tax imposed by RCW  
19 82.08.020. The buyer may then apply to the department for remittance  
20 of all or part of the tax paid under RCW 82.08.020. For grain  
21 elevators with bushel capacity of one million but less than two  
22 million, the remittance is equal to fifty percent of the amount of tax  
23 paid. For warehouses with square footage of two hundred thousand or  
24 more and for grain elevators with bushel capacity of two million or  
25 more, the remittance is equal to one hundred percent of the amount of  
26 tax paid for qualifying construction, materials, service, and labor,  
27 and fifty percent of the amount of tax paid for qualifying material-  
28 handling equipment and racking equipment, and labor and services  
29 rendered in respect to installing, repairing, cleaning, altering, or  
30 improving the equipment.

31 (b) This subsection (3)(b) applies to persons located in an  
32 eligible area as defined in RCW 82.60.020. For warehouses with square  
33 footage of one hundred thousand or more square feet, except as  
34 otherwise provided, the remittance is equal to one hundred percent of  
35 the amount of tax paid for qualifying construction, materials, service,  
36 and labor, and fifty percent of the amount of tax paid for qualifying  
37 material-handling equipment and racking equipment, and labor and  
38 services rendered in respect to installing, repairing, cleaning,  
39 altering, or improving the equipment. The minimum square footage for

1 controlled atmosphere storage warehouses is forty thousand square feet.  
2 Controlled atmosphere storage means the same as defined in RCW  
3 15.30.010.

4 (c) The department shall determine eligibility under this section  
5 based on information provided by the buyer and through audit and other  
6 administrative records. The buyer shall on a quarterly basis submit an  
7 information sheet, in a form and manner as required by the department  
8 by rule, specifying the amount of exempted tax claimed and the  
9 qualifying purchases or acquisitions for which the exemption is  
10 claimed. The buyer shall retain, in adequate detail to enable the  
11 department to determine whether the equipment or construction meets the  
12 criteria under this section: Invoices; proof of tax paid; documents  
13 describing the material-handling equipment and racking equipment;  
14 location and size of warehouses and grain elevators; and construction  
15 invoices and documents.

16 ((+e)) (d) The department shall on a quarterly basis remit  
17 exempted amounts to qualifying persons who submitted applications  
18 during the previous quarter.

19 (4) Warehouses, grain elevators, and material-handling equipment  
20 and racking equipment for which an exemption, credit, or deferral has  
21 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63  
22 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
23 remittance under this section. Warehouses and grain elevators upon  
24 which construction was initiated before May 20, 1997, are not eligible  
25 for a remittance under this section.

26 (5) The lessor or owner of a warehouse or grain elevator is not  
27 eligible for a remittance under this section unless the underlying  
28 ownership of the warehouse or grain elevator and the material-handling  
29 equipment and racking equipment vests exclusively in the same person,  
30 or unless the lessor by written contract agrees to pass the economic  
31 benefit of the remittance to the lessee in the form of reduced rent  
32 payments.

33 **Sec. 15.** RCW 82.12.820 and 1997 c 450 s 3 are each amended to read  
34 as follows:

35 (1) Wholesalers or third-party warehouseers who own or operate  
36 warehouses or grain elevators, and retailers who own or operate  
37 distribution centers, and who have paid the tax levied under RCW  
38 82.12.020 on:

1 (a) Material-handling equipment and racking equipment; or  
2 (b) Materials incorporated in the construction of a warehouse or  
3 grain elevator,  
4 are eligible for an exemption on tax paid in the form of a remittance  
5 or credit against tax owned. The amount of the remittance or credit is  
6 computed under subsection (2) of this section and is based on the state  
7 share of use tax.

8 (2)(a) A person claiming an exemption from state tax in the form of  
9 a remittance under this section must pay the tax imposed by RCW  
10 82.12.020 to the department. The person may then apply to the  
11 department for remittance of all or part of the tax paid under RCW  
12 82.12.020. For grain elevators with bushel capacity of one million but  
13 less than two million, the remittance is equal to fifty percent of the  
14 amount of tax paid. For warehouses with square footage of two hundred  
15 thousand and for grain elevators with bushel capacity of two million or  
16 more, the remittance is equal to one hundred percent of the amount of  
17 tax paid for qualifying construction materials, and fifty percent of  
18 the amount of tax paid for qualifying material-handling equipment and  
19 racking equipment.

20 (b) This subsection (2)(b) applies to persons located in an  
21 eligible area as defined in RCW 82.60.020. For warehouses with square  
22 footage of one hundred thousand or more square feet, except as  
23 otherwise provided, the remittance is equal to one hundred percent of  
24 the amount of tax paid for qualifying construction materials, and fifty  
25 percent of the amount of tax paid for qualifying material-handling  
26 equipment and racking equipment. The minimum square footage for  
27 controlled atmosphere storage warehouses is forty thousand square feet.  
28 Controlled atmosphere storage means the same as defined in RCW  
29 15.30.010.

30 (c) The department shall determine eligibility under this section  
31 based on information provided by the buyer and through audit and other  
32 administrative records. The buyer shall on a quarterly basis submit an  
33 information sheet, in a form and manner as required by the department  
34 by rule, specifying the amount of exempted tax claimed and the  
35 qualifying purchases or acquisitions for which the exemption is  
36 claimed. The buyer shall retain, in adequate detail to enable the  
37 department to determine whether the equipment or construction meets the  
38 criteria under this section: Invoices; proof of tax paid; documents  
39 describing the material-handling equipment and racking equipment;

1 location and size of warehouses, if applicable; and construction  
2 invoices and documents.

3 ((+e)) (d) The department shall on a quarterly basis remit or  
4 credit exempted amounts to qualifying persons who submitted  
5 applications during the previous quarter.

6 (3) Warehouse, grain elevators, and material-handling equipment and  
7 racking equipment for which an exemption, credit, or deferral has been  
8 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or  
9 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
10 under this section. Materials incorporated in warehouses and grain  
11 elevators upon which construction was initiated prior to May 20, 1997,  
12 are not eligible for a remittance under this section.

13 (4) The lessor or owner of the warehouse or grain elevator is not  
14 eligible for a remittance or credit under this section unless the  
15 underlying ownership of the warehouse or grain elevator and  
16 material-handling equipment and racking equipment vests exclusively in  
17 the same person, or unless the lessor by written contract agrees to  
18 pass the economic benefit of the exemption to the lessee in the form of  
19 reduced rent payments.

20 (5) The definitions in RCW 82.08.820 apply to this section.

21 **ELECTRIC UTILITIES**

22 NEW SECTION. **Sec. 16.** The legislature finds that it is necessary  
23 to employ multiple approaches to revitalize the economy of Washington  
24 state's rural areas. The legislature also finds that where possible,  
25 Washington state should develop programs which can compliment other  
26 private, state, and federal programs. It is the intent of section 17  
27 of this act to compliment such rural economic development efforts by  
28 creating a public utility tax offset program to help establish locally  
29 based electric utility revolving fund programs to be used for economic  
30 development and job creation.

31 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.16 RCW  
32 to read as follows:

33 (1) The following definitions apply to this section:

34 (a) "Qualifying project" means a project designed to achieve job  
35 creation or business retention, to add or upgrade nonelectrical  
36 infrastructure, to add or upgrade health and safety facilities, to

1 accomplish energy and water use efficiency improvements, including  
2 renewable energy development, or to add or upgrade emergency services  
3 in any designated qualifying rural area.

4 (b) "Qualifying rural area" means:

5 (i) An eligible area as defined in RCW 82.60.020; or

6 (ii) Any geographic area in the state that receives electricity  
7 from a light and power business with fewer than twenty-six meters per  
8 mile of distribution line as determined and published by the department  
9 of revenue effective July 1st of each year. The department shall use  
10 current data provided by the electricity industry.

11 (c) "Electric utility rural economic development revolving fund"  
12 means a fund devoted exclusively to funding qualifying projects in  
13 qualifying rural areas.

14 (d) "Local board" is a board of directors with at least, but not  
15 limited to, three members who have been appointed by the sponsoring  
16 electric utility to oversee and direct the activities of the electric  
17 utility rural economic development revolving fund.

18 (e) "Geographic area" means any portion of a light and power  
19 business' service territory, either in whole or any subdivision  
20 thereof.

21 (2) A light and power business with fewer than twenty-six active  
22 meters per mile of distribution line in any geographic area in the  
23 state shall be allowed a credit against taxes due under this chapter in  
24 an amount equal to fifty percent of contributions made in any calendar  
25 year directly to an electric utility rural economic development  
26 revolving fund. The credit under this section shall not exceed one  
27 hundred thousand dollars per calendar year. The credit may not exceed  
28 the tax that would otherwise be due under this chapter. Refunds shall  
29 not be granted in the place of credits and excess expenditures shall  
30 not be carried over to subsequent years.

31 (3) The right to claim tax credits under this section expires  
32 December 31, 2005. However any credits claimed prior to that date  
33 remain available for use indefinitely, subject to restrictions set  
34 forth in subsection (6) of this section.

35 (4) To qualify for the credit in subsection (2) of this section,  
36 the light and power business shall establish an electric utility rural  
37 economic development revolving fund which is governed by a local board  
38 whose members shall reside in the qualifying rural area served by the  
39 light and power business. The local board shall have authority to



1 determine all criteria and conditions for the expenditure of funds from  
2 the electric utility rural economic development fund, and for the terms  
3 and conditions of repayment.

4 (5) Any funds repaid to the electric utility rural economic  
5 development fund by recipients shall be made available for additional  
6 qualifying projects.

7 (6) If at any time the electric utility rural economic development  
8 fund is dissolved, any moneys claimed as a tax credit under this  
9 section shall either be granted to a qualifying project or refunded to  
10 the state within two years of termination.

11 **MANUFACTURING AND RESEARCH SALES TAX**  
12 **EXEMPTION FOR RURAL COUNTIES**

13 **Sec. 18.** RCW 82.08.02565 and 1998 c 330 s 1 are each amended to  
14 read as follows:

15 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
16 manufacturer or processor for hire of machinery and equipment used  
17 directly in a manufacturing operation or research and development  
18 operation, or to sales of or charges made for labor and services  
19 rendered in respect to installing, repairing, cleaning, altering, or  
20 improving the machinery and equipment, but only when the purchaser  
21 provides the seller with an exemption certificate in a form and manner  
22 prescribed by the department by rule. The seller shall retain a copy  
23 of the certificate for the seller's files.

24 (2) For purposes of this section and RCW 82.12.02565:

25 (a) "Machinery and equipment" means industrial fixtures, devices,  
26 and support facilities, and tangible personal property that becomes an  
27 ingredient or component thereof, including repair parts and replacement  
28 parts. "Machinery and equipment" includes pollution control equipment  
29 installed and used in a manufacturing operation or research and  
30 development operation to prevent air pollution, water pollution, or  
31 contamination that might otherwise result from the manufacturing  
32 operation or research and development operation.

33 (b) "Machinery and equipment" does not include:

34 (i) Hand tools;

35 (ii) Property with a useful life of less than one year;

36 (iii) Buildings, other than machinery and equipment that is  
37 permanently affixed to or becomes a physical part of a building; and

1 (iv) Building fixtures that are not integral to the manufacturing  
2 operation or research and development operation that are permanently  
3 affixed to and become a physical part of a building, such as utility  
4 systems for heating, ventilation, air conditioning, communications,  
5 plumbing, or electrical.

6 (c) Machinery and equipment is "used directly" in a manufacturing  
7 operation or research and development operation if the machinery and  
8 equipment:

9 (i) Acts upon or interacts with an item of tangible personal  
10 property;

11 (ii) Conveys, transports, handles, or temporarily stores an item of  
12 tangible personal property at the manufacturing site;

13 (iii) Controls, guides, measures, verifies, aligns, regulates, or  
14 tests tangible personal property;

15 (iv) Provides physical support for or access to tangible personal  
16 property;

17 (v) Produces power for, or lubricates machinery and equipment;

18 (vi) Produces another item of tangible personal property for use in  
19 the manufacturing operation or research and development operation;

20 (vii) Places tangible personal property in the container, package,  
21 or wrapping in which the tangible personal property is normally sold or  
22 transported; or

23 (viii) Is integral to research and development as defined in RCW  
24 82.63.010.

25 (d) "Manufacturing operation" means the manufacturing of articles,  
26 substances, or commodities for sale as tangible personal property. The  
27 manufacturing operation begins at the point where the raw materials  
28 enter the manufacturing site and ends at the point where the finished  
29 product leaves the manufacturing site. The term also includes that  
30 portion of a cogeneration project that is used to generate power for  
31 consumption within the manufacturing site of which the cogeneration  
32 project is an integral part. The term does not include the production  
33 of electricity by a light and power business as defined in RCW  
34 82.16.010 other than competitive generating facilities in rural areas  
35 or the preparation of food products on the premises of a person selling  
36 food products at retail.

37 (e) "Cogeneration" means the simultaneous generation of electrical  
38 energy and low-grade heat from the same fuel.

1 (f) "Research and development operation" means engaging in research  
2 and development as defined in RCW 82.63.010 by a manufacturer or  
3 processor for hire.

4 (g) "Competitive generating facilities" means electrical generating  
5 facilities that are competing as the low-cost producers in the energy  
6 market and are not guaranteed a rate of return for any part of the  
7 power they produce.

8 (h) "Rural areas" means counties with population density of less  
9 than one hundred persons per square mile as determined annually by the  
10 office of financial management and published by the department of  
11 revenue.

12 **MISCELLANEOUS**

13 NEW SECTION. Sec. 19. Part headings used in this act are not any  
14 part of the law.

15 NEW SECTION. Sec. 20. This act takes effect August 1, 1999.

16 NEW SECTION. Sec. 21. Section 18 of this act expires July 1,  
17 2002.

18 NEW SECTION. Sec. 22. Sections 2 through 6 and 11 of this act do  
19 not affect any existing right acquired or liability or obligation under  
20 the sections amended or repealed in those sections or any rule or order  
21 adopted under those sections, nor does it affect any proceeding  
22 instituted under those sections.

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