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**SUBSTITUTE SENATE BILL 5469**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Economic Development & Telecommunications  
(originally sponsored by Senators T. Sheldon, Rasmussen, Haugen and McCaslin)

READ FIRST TIME 02/15/01.

1 AN ACT Relating to tax incentives in rural counties and community  
2 empowerment zones; amending RCW 82.60.010, 82.60.020, 82.62.010,  
3 82.62.030, 82.62.045, and 82.04.44525; and creating a new section.

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

5 **Sec. 1.** RCW 82.60.010 and 1985 c 232 s 1 are each amended to read  
6 as follows:

7 The legislature finds that there are several areas in the state  
8 that are characterized by very high levels of unemployment and poverty.  
9 The (~~legislative~~[legislature]) legislature further finds that  
10 economic stagnation is the primary cause of this high unemployment rate  
11 and poverty; that new state policies are necessary in order to promote  
12 economic stimulation and new employment opportunities in these rural  
13 and distressed areas; and that policies providing incentives for  
14 economic growth in these rural and distressed areas are essential. For  
15 these reasons, the legislature hereby establishes a tax deferral  
16 program to be effective solely in rural and distressed areas and under  
17 circumstances where the deferred tax payments are for investments or  
18 costs that result in the creation of a specified number of jobs. The  
19 legislature declares that this limited program serves the vital public

1 purpose of creating employment opportunities and reducing poverty in  
2 the rural and distressed areas of the state.

3 **Sec. 2.** RCW 82.60.020 and 1999 sp.s. c 9 s 2 are each amended to  
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

10 (3) "Eligible area" means a rural county (~~((with fewer than one~~  
11 ~~hundred persons per square mile as determined annually by the office of~~  
12 ~~financial management and published by the department of revenue~~  
13 ~~effective for the period July 1st through June 30th))~~ as defined in  
14 this section.

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

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

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

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

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

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

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

13 (9) "Qualified machinery and equipment" means all new industrial  
14 and research fixtures, equipment, and support facilities that are an  
15 integral and necessary part of a manufacturing or research and  
16 development operation. "Qualified machinery and equipment" includes:  
17 Computers; software; data processing equipment; laboratory equipment;  
18 manufacturing components such as belts, pulleys, shafts, and moving  
19 parts; molds, tools, and dies; operating structures; and all equipment  
20 used to control or operate the machinery.

21 (10) "Recipient" means a person receiving a tax deferral under this  
22 chapter.

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

29 (12) "Rural county" means a county with fewer than one hundred  
30 persons per square mile or less than two hundred fifty square miles as  
31 determined annually by the office of financial management and published  
32 by the department of revenue effective for the period July 1st through  
33 June 30th.

34 **Sec. 3.** RCW 82.62.010 and 1999 sp.s. c 9 s 3 are each amended to  
35 read as follows:

36 Unless the context clearly requires otherwise, the definitions in  
37 this section apply throughout this chapter.

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

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

4 (3) "Eligible area" means (~~(an area)~~) a rural county as defined in  
5 RCW 82.60.020.

6 (4)(a) "Eligible business project" means manufacturing or research  
7 and development activities which are conducted by an applicant in an  
8 eligible area at a specific facility, provided the applicant's average  
9 full-time qualified employment positions at the specific facility will  
10 be at least fifteen percent greater in the year for which the credit is  
11 being sought than the applicant's average full-time qualified  
12 employment positions at the same facility in the immediately preceding  
13 year.

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

19 (5) "Manufacturing" means the same as defined in RCW 82.04.120.  
20 "Manufacturing" also includes computer programming, the production of  
21 computer software, and other computer-related services, and the  
22 activities performed by research and development laboratories and  
23 commercial testing laboratories.

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

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

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

29 (9) "Recipient" means a person receiving tax credits under this  
30 chapter.

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

37 **Sec. 4.** RCW 82.62.030 and 1999 c 164 s 306 are each amended to  
38 read as follows:

1 (1) A person shall be allowed a credit against the tax due under  
2 chapter 82.04 RCW as provided in this section. The credit shall equal:  
3 (a) Four thousand dollars for each qualified employment position with  
4 wages and benefits greater than forty thousand dollars annually that is  
5 directly created in an eligible business and (b) two thousand dollars  
6 for each qualified employment position with wages and benefits less  
7 than or equal to forty thousand dollars annually that is directly  
8 created in an eligible business.

9 (2) The department shall keep a running total of all credits  
10 granted under this chapter during each fiscal year. The department  
11 shall not allow any credits which would cause the tabulation to exceed  
12 ~~((seven million five hundred thousand))~~ ten million dollars in any  
13 fiscal year, however no less than two million five hundred thousand  
14 dollars per fiscal year may be allocated toward credits for qualified  
15 employment positions created as a result of a business relocation or  
16 expansion to an eligible area from a noneligible area of the state. If  
17 all or part of an application for credit is disallowed under this  
18 subsection, the disallowed portion shall be carried over for approval  
19 the next fiscal year. However, the applicant's carryover into the next  
20 fiscal year is only permitted if the tabulation for the next fiscal  
21 year does not exceed the cap for that fiscal year as of the date on  
22 which the department has disallowed the application.

23 (3) No recipient may use the tax credits to decertify a union or to  
24 displace existing jobs in any ~~((community in the state))~~ rural county  
25 or designated community empowerment zone, approved under RCW  
26 43.31C.020.

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

29 **Sec. 5.** RCW 82.62.045 and 1999 c 164 s 307 are each amended to  
30 read as follows:

31 (1) For the purposes of this section "eligible area" also means a  
32 designated community empowerment zone approved under RCW ~~((43.63A.700))~~  
33 43.31C.020.

34 (2) An eligible business project located within an eligible area as  
35 defined in this section qualifies for a credit under this chapter for  
36 those employees who at the time of hire are residents of the community  
37 empowerment zone in which the project is located, if the fifteen  
38 percent threshold is met. As used in this subsection, "resident" means

1 the person makes his or her home in the community empowerment zone. A  
2 mailing address alone is insufficient to establish that a person is a  
3 resident for the purposes of this section.

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

6 NEW SECTION. **Sec. 6.** The legislature finds that the existing tax  
7 incentive for attracting and retaining new international service  
8 businesses in targeted urban areas has not been used as originally  
9 intended. The legislature further finds that, like community  
10 empowerment zones and other distressed urban areas, rural counties are  
11 also characterized by higher rates of unemployment and poverty. The  
12 legislature therefore intends to renew interest in attracting and  
13 retaining international service businesses by extending the time period  
14 in which cities can identify distressed areas as eligible, extending  
15 the areas eligible for the program to include rural counties, and by  
16 allowing credit for the relocation of these professional services jobs  
17 from nondistressed urban areas into rural and distressed areas of the  
18 state.

19 **Sec. 7.** RCW 82.04.44525 and 1998 c 313 s 2 are each amended to  
20 read as follows:

21 (1) Subject to the limits in this section, an eligible person is  
22 allowed a credit against the tax due under this chapter. The credit is  
23 based on qualified employment positions in eligible areas. The credit  
24 is available to persons who are engaged in international services as  
25 defined in this section. In order to receive the credit, the  
26 international service activities must take place at a business within  
27 the eligible area.

28 (2)(a) The credit shall equal three thousand dollars for each  
29 qualified employment position created after July 1, (~~1998~~) 2001, in  
30 an eligible area. A credit is earned for the calendar year the person  
31 is hired to fill the position, plus the four subsequent consecutive  
32 years, if the position is maintained for those four years.

33 (b) Credit may not be taken for hiring of persons into positions  
34 that exist in an eligible area on July 1, (~~1998~~) 2001. Credit is  
35 authorized for (~~new~~) employees hired for or transferred to new  
36 positions created in eligible areas after July 1, (~~1998~~) 2001. New  
37 positions filled by existing employees are eligible for the credit

1 under this section (~~only~~) if the business relocates from an  
2 ineligible to an eligible area or if the position vacated by the  
3 existing employee is filled by a new hire.

4 (c) When a position is newly created, if it is filled before July  
5 1st, this position is eligible for the full yearly credit. If it is  
6 filled after June 30th, this position is eligible for half of the  
7 credit.

8 (d) Credit may be accrued and carried over until it is used. No  
9 refunds may be granted for credits under this section.

10 (3) For the purposes of this section:

11 (a) "Eligible area" means: (i) A community empowerment zone under  
12 RCW (~~43.63A.700~~) 43.31C.020; (ii) a rural county as defined in RCW  
13 82.60.020; or (~~(ii)~~) (iii) a contiguous group of census tracts that  
14 meets the unemployment and poverty criteria of RCW (~~43.63A.710~~)  
15 43.31C.030 and is designated under subsection (4) of this section;

16 (b) "Eligible person" means a person, as defined in RCW 82.04.030,  
17 who in an eligible area at a specific location is engaged in the  
18 business of providing international services;

19 (c)(i) "International services" means the provision of a service,  
20 as defined under (c)(iii) of this subsection, that is subject to tax  
21 under RCW 82.04.290(2), and either:

22 (A) Is for a person domiciled outside the United States; or

23 (B) The service itself is for use primarily outside of the United  
24 States.

25 (ii) "International services" excludes any service taxable under  
26 RCW 82.04.290(1).

27 (iii) Eligible services are: Computer; data processing;  
28 information; legal; accounting and tax preparation; engineering;  
29 architectural; business consulting; business management; public  
30 relations and advertising; surveying; geological consulting; real  
31 estate appraisal; or financial services. For the purposes of this  
32 section these services mean the following:

33 (A) "Computer services" are services such as computer programming,  
34 custom software modification, customization of canned software, custom  
35 software installation, custom software maintenance, custom software  
36 repair, training in the use of software, computer systems design, and  
37 custom software update services;

38 (B) "Data processing services" are services such as word  
39 processing, data entry, data retrieval, data search, information

1 compilation, payroll processing, business accounts processing, data  
2 production, and other computerized data and information storage or  
3 manipulation. "Data processing services" also includes the use of a  
4 computer or computer time for data processing whether the processing is  
5 performed by the provider of the computer or by the purchaser or other  
6 beneficiary of the service;

7 (C) "Information services" are services such as electronic data  
8 retrieval or research that entails furnishing financial or legal  
9 information, data or research, internet service as defined in RCW  
10 82.04.297, general or specialized news, or current information;

11 (D) "Legal services" are services such as representation by an  
12 attorney, or other person when permitted, in an administrative or legal  
13 proceeding, legal drafting, paralegal services, legal research  
14 services, and court reporting services, arbitration, and mediation  
15 services;

16 (E) "Accounting and tax preparation services" are services such as  
17 accounting, auditing, actuarial, bookkeeping, or tax preparation  
18 services;

19 (F) "Engineering services" are services such as civil, electrical,  
20 mechanical, petroleum, marine, nuclear, and design engineering, machine  
21 designing, machine tool designing, and sewage disposal system designing  
22 services;

23 (G) "Architectural services" are services such as structural or  
24 landscape design or architecture, interior design, building design,  
25 building program management, and space planning services;

26 (H) "Business consulting services" are services such as primarily  
27 providing operating counsel, advice, or assistance to the management or  
28 owner of any business, private, nonprofit, or public organization,  
29 including but not limited to those in the following areas:  
30 Administrative management consulting; general management consulting;  
31 human resource consulting or training; management engineering  
32 consulting; management information systems consulting; manufacturing  
33 management consulting; marketing consulting; operations research  
34 consulting; personnel management consulting; physical distribution  
35 consulting; site location consulting; economic consulting; motel,  
36 hotel, and resort consulting; restaurant consulting; government affairs  
37 consulting; and lobbying;

38 (I) "Business management services" are services such as  
39 administrative management, business management, and office management.



1 "Business management services" does not include property management or  
2 property leasing, motel, hotel, and resort management, or automobile  
3 parking management;

4 (J) "Public relations and advertising services" are services such  
5 as layout, art direction, graphic design, copy writing, mechanical  
6 preparation, opinion research, marketing research, marketing, or  
7 production supervision;

8 (K) "Surveying services" are services such as land surveying;

9 (L) "Geological consulting services" are services rendered for the  
10 oil, gas, and mining industry and other earth resource industries, and  
11 other services such as soil testing;

12 (M) "Real estate appraisal services" are services such as market  
13 appraisal and other real estate valuation; and

14 (N) "Financial services" are services such as banking, loan,  
15 security, investment management, investment advisory, mortgage  
16 servicing, contract collection, and finance leasing services, engaged  
17 in by financial businesses, or businesses similar to or in competition  
18 with financial businesses; and

19 (d) "Qualified employment position" means a permanent full-time  
20 position to provide international services. If an employee is either  
21 voluntarily or involuntarily separated from employment, the employment  
22 position is considered filled on a full-time basis if the employer is  
23 either training or actively recruiting a replacement employee.

24 (4) By ordinance, the legislative authority of a city, or  
25 legislative authorities of contiguous cities by ordinance of each  
26 city's legislative authority, with population greater than eighty  
27 thousand, located in a nonrural county containing no community  
28 empowerment zones as designated under RCW ((43.63A.700)) 43.31C.020,  
29 may designate a contiguous group of census tracts within the city or  
30 cities as an eligible area under this section. Each of the census  
31 tracts must meet the unemployment and poverty criteria of RCW  
32 ((43.63A.710)) 43.31C.030. Upon making the designation, the city or  
33 cities shall transmit to the department of revenue a certification  
34 letter and a map, each explicitly describing the boundaries of the  
35 census tract. This designation must be made by December 31, ((1998))  
36 2002.

37 (5) No application is necessary for the tax credit. The person  
38 must keep records necessary for the department to verify eligibility  
39 under this section. This information includes:

1 (a) Employment records for the previous six years;  
2 (b) Information relating to description of international service  
3 activity engaged in at the eligible location by the person; and  
4 (c) Information relating to customers of international service  
5 activity engaged in at that location by the person.  
6 (6) If at any time the department finds that a person is not  
7 eligible for tax credit under this section, the amount of taxes for  
8 which a credit has been used shall be immediately due. The department  
9 shall assess interest, but not penalties, on the credited taxes for  
10 which the person is not eligible. The interest shall be assessed at  
11 the rate provided for delinquent excise taxes under chapter 82.32 RCW,  
12 shall be assessed retroactively to the date the tax credit was taken,  
13 and shall accrue until the taxes for which a credit has been used are  
14 repaid.  
15 (7) The employment security department shall provide to the  
16 department of revenue such information needed by the department of  
17 revenue to verify eligibility under this section.

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