

SB 5725 - H COMM AMD
By Committee on Finance

NOT ADOPTED 04/27/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds that the
4 welfare of the people of the state of Washington is positively impacted
5 through the encouragement and expansion of family wage employment in
6 the state's manufacturing industries. The legislature further finds
7 that targeting tax incentives to focus on key industry clusters is an
8 important business climate strategy. The Washington competitiveness
9 council has recognized the semiconductor industry, which includes the
10 design and manufacture of semiconductor materials, as one of the
11 state's existing key industry clusters. Businesses in this cluster in
12 the state of Washington are facing increasing pressure to expand
13 elsewhere. The sales and use tax exemptions for manufacturing
14 machinery and equipment enacted by the 1995 legislature improved
15 Washington's ability to compete with other states for manufacturing
16 investment. However, additional incentives for the semiconductor
17 cluster need to be put in place in recognition of the unique forces and
18 global issues involved in business decisions that key businesses in
19 this cluster face.

20 Therefore, the legislature intends to enact comprehensive tax
21 incentives for the semiconductor cluster that address activities of the
22 lead product industry and its suppliers and customers. Tax incentives
23 for the semiconductor cluster are important in both retention and
24 expansion of existing business and attraction of new businesses, all of
25 which will strengthen this cluster. The legislature also recognizes
26 that the semiconductor industry involves major investment that results
27 in significant construction projects, which will create jobs and bring
28 many indirect benefits to the state during the construction phase.

1 **Sec. 2.** RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each amended
2 to read as follows:

3 (1) Upon every person engaging within this state in the business of
4 manufacturing:

5 (a) Wheat into flour, barley into pearl barley, soybeans into
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,
7 or sunflower seeds into sunflower oil; as to such persons the amount of
8 tax with respect to such business shall be equal to the value of the
9 flour, pearl barley, oil, canola meal, or canola byproduct
10 manufactured, multiplied by the rate of 0.138 percent;

11 (b) Seafood products which remain in a raw, raw frozen, or raw
12 salted state at the completion of the manufacturing by that person; as
13 to such persons the amount of tax with respect to such business shall
14 be equal to the value of the products manufactured, multiplied by the
15 rate of 0.138 percent;

16 (c) By canning, preserving, freezing, processing, or dehydrating
17 fresh fruits and vegetables, or selling at wholesale fresh fruits and
18 vegetables canned, preserved, frozen, processed, or dehydrated by the
19 seller and sold to purchasers who transport in the ordinary course of
20 business the goods out of this state; as to such persons the amount of
21 tax with respect to such business shall be equal to the value of the
22 products canned, preserved, frozen, processed, or dehydrated multiplied
23 by the rate of 0.138 percent. As proof of sale to a person who
24 transports in the ordinary course of business goods out of this state,
25 the seller shall annually provide a statement in a form prescribed by
26 the department and retain the statement as a business record; and

27 (d) Dairy products that as of September 20, 2001, are identified in
28 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
29 from the manufacturing of the dairy products such as whey and casein;
30 or selling the same to purchasers who transport in the ordinary course
31 of business the goods out of state; as to such persons the tax imposed
32 shall be equal to the value of the products manufactured multiplied by
33 the rate of 0.138 percent. As proof of sale to a person who transports
34 in the ordinary course of business goods out of this state, the seller
35 shall annually provide a statement in a form prescribed by the
36 department and retain the statement as a business record.

1 (2) Upon every person engaging within this state in the business of
2 splitting or processing dried peas; as to such persons the amount of
3 tax with respect to such business shall be equal to the value of the
4 peas split or processed, multiplied by the rate of 0.138 percent.

5 (3) Upon every nonprofit corporation and nonprofit association
6 engaging within this state in research and development, as to such
7 corporations and associations, the amount of tax with respect to such
8 activities shall be equal to the gross income derived from such
9 activities multiplied by the rate of 0.484 percent.

10 (4) Upon every person engaging within this state in the business of
11 slaughtering, breaking and/or processing perishable meat products
12 and/or selling the same at wholesale only and not at retail; as to such
13 persons the tax imposed shall be equal to the gross proceeds derived
14 from such sales multiplied by the rate of 0.138 percent.

15 (5) Upon every person engaging within this state in the business of
16 making sales, at retail or wholesale, of nuclear fuel assemblies
17 manufactured by that person, as to such persons the amount of tax with
18 respect to such business shall be equal to the gross proceeds of sales
19 of the assemblies multiplied by the rate of 0.275 percent.

20 (6) Upon every person engaging within this state in the business of
21 manufacturing nuclear fuel assemblies, as to such persons the amount of
22 tax with respect to such business shall be equal to the value of the
23 products manufactured multiplied by the rate of 0.275 percent.

24 (7) Upon every person engaging within this state in the business of
25 acting as a travel agent or tour operator; as to such persons the
26 amount of the tax with respect to such activities shall be equal to the
27 gross income derived from such activities multiplied by the rate of
28 0.275 percent.

29 (8) Upon every person engaging within this state in business as an
30 international steamship agent, international customs house broker,
31 international freight forwarder, vessel and/or cargo charter broker in
32 foreign commerce, and/or international air cargo agent; as to such
33 persons the amount of the tax with respect to only international
34 activities shall be equal to the gross income derived from such
35 activities multiplied by the rate of 0.275 percent.

36 (9) Upon every person engaging within this state in the business of
37 stevedoring and associated activities pertinent to the movement of

1 goods and commodities in waterborne interstate or foreign commerce; as
2 to such persons the amount of tax with respect to such business shall
3 be equal to the gross proceeds derived from such activities multiplied
4 by the rate of 0.275 percent. Persons subject to taxation under this
5 subsection shall be exempt from payment of taxes imposed by chapter
6 82.16 RCW for that portion of their business subject to taxation under
7 this subsection. Stevedoring and associated activities pertinent to
8 the conduct of goods and commodities in waterborne interstate or
9 foreign commerce are defined as all activities of a labor, service or
10 transportation nature whereby cargo may be loaded or unloaded to or
11 from vessels or barges, passing over, onto or under a wharf, pier, or
12 similar structure; cargo may be moved to a warehouse or similar holding
13 or storage yard or area to await further movement in import or export
14 or may move to a consolidation freight station and be stuffed,
15 unstuffed, containerized, separated or otherwise segregated or
16 aggregated for delivery or loaded on any mode of transportation for
17 delivery to its consignee. Specific activities included in this
18 definition are: Wharfage, handling, loading, unloading, moving of
19 cargo to a convenient place of delivery to the consignee or a
20 convenient place for further movement to export mode; documentation
21 services in connection with the receipt, delivery, checking, care,
22 custody and control of cargo required in the transfer of cargo;
23 imported automobile handling prior to delivery to consignee; terminal
24 stevedoring and incidental vessel services, including but not limited
25 to plugging and unplugging refrigerator service to containers,
26 trailers, and other refrigerated cargo receptacles, and securing ship
27 hatch covers.

28 (10) Upon every person engaging within this state in the business
29 of disposing of low-level waste, as defined in RCW 43.145.010; as to
30 such persons the amount of the tax with respect to such business shall
31 be equal to the gross income of the business, excluding any fees
32 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
33 percent.

34 If the gross income of the taxpayer is attributable to activities
35 both within and without this state, the gross income attributable to
36 this state shall be determined in accordance with the methods of
37 apportionment required under RCW 82.04.460.

1 (11) Upon every person engaging within this state as an insurance
2 agent, insurance broker, or insurance solicitor licensed under chapter
3 48.17 RCW; as to such persons, the amount of the tax with respect to
4 such licensed activities shall be equal to the gross income of such
5 business multiplied by the rate of 0.484 percent.

6 (12) Upon every person engaging within this state in business as a
7 hospital, as defined in chapter 70.41 RCW, that is operated as a
8 nonprofit corporation or by the state or any of its political
9 subdivisions, as to such persons, the amount of tax with respect to
10 such activities shall be equal to the gross income of the business
11 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
12 percent thereafter. The moneys collected under this subsection shall
13 be deposited in the health services account created under RCW
14 43.72.900.

15 (13) Until July 1, 2017, upon every person engaging within this
16 state in the business of manufacturing semiconductor materials, as to
17 such persons the amount of tax with respect to such business shall, in
18 the case of manufacturers, be equal to the value of the product
19 manufactured, or, in the case of processors for hire, be equal to the
20 gross income of the business, multiplied by the rate of 0.138 percent.
21 For the purposes of this subsection "semiconductor materials" means
22 silicon crystals, silicon ingots, raw polished semiconductor wafers,
23 compound semiconductors, integrated circuits, and microchips.

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

26 Upon every person (~~(except persons taxable under RCW 82.04.260 (1),~~
27 ~~(2), (4), (5), or (6))~~) engaging within this state in business as a
28 manufacturer, except persons taxable as manufacturers under another
29 section of this chapter; as to such persons the amount of the tax with
30 respect to such business shall be equal to the value of the products,
31 including byproducts, manufactured, multiplied by the rate of 0.484
32 percent.

33 The measure of the tax is the value of the products, including
34 byproducts, so manufactured regardless of the place of sale or the fact
35 that deliveries may be made to points outside the state.

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

3 Upon every person engaging within this state in the business of:

4 (1) Printing, and of publishing newspapers, periodicals, or magazines;

5 (2) building, repairing or improving any street, place, road, highway,

6 easement, right of way, mass public transportation terminal or parking

7 facility, bridge, tunnel, or trestle which is owned by a municipal

8 corporation or political subdivision of the state or by the United

9 States and which is used or to be used, primarily for foot or vehicular

10 traffic including mass transportation vehicles of any kind and

11 including any readjustment, reconstruction or relocation of the

12 facilities of any public, private or cooperatively owned utility or

13 railroad in the course of such building, repairing or improving, the

14 cost of which readjustment, reconstruction, or relocation, is the

15 responsibility of the public authority whose street, place, road,

16 highway, easement, right of way, mass public transportation terminal or

17 parking facility, bridge, tunnel, or trestle is being built, repaired

18 or improved; (3) extracting for hire or processing for hire, except

19 persons taxable as processors for hire under another section of this

20 chapter; (4) operating a cold storage warehouse or storage warehouse,

21 but not including the rental of cold storage lockers; (5) representing

22 and performing services for fire or casualty insurance companies as an

23 independent resident managing general agent licensed under the

24 provisions of RCW 48.05.310; (6) radio and television broadcasting,

25 excluding network, national and regional advertising computed as a

26 standard deduction based on the national average thereof as annually

27 reported by the Federal Communications Commission, or in lieu thereof

28 by itemization by the individual broadcasting station, and excluding

29 that portion of revenue represented by the out-of-state audience

30 computed as a ratio to the station's total audience as measured by the

31 100 micro-volt signal strength and delivery by wire, if any; (7)

32 engaging in activities which bring a person within the definition of

33 consumer contained in RCW 82.04.190(6); as to such persons, the amount

34 of tax on such business shall be equal to the gross income of the

35 business multiplied by the rate of 0.484 percent.

36 As used in this section, "cold storage warehouse" means a storage

37 warehouse used to store fresh and/or frozen perishable fruits or

1 vegetables, meat, seafood, dairy products, or fowl, or any combination
2 thereof, at a desired temperature to maintain the quality of the
3 product for orderly marketing.

4 As used in this section, "storage warehouse" means a building or
5 structure, or any part thereof, in which goods, wares, or merchandise
6 are received for storage for compensation, except field warehouses,
7 fruit warehouses, fruit packing plants, warehouses licensed under
8 chapter 22.09 RCW, public garages storing automobiles, railroad freight
9 sheds, docks and wharves, and "self-storage" or "mini storage"
10 facilities whereby customers have direct access to individual storage
11 areas by separate entrance. "Storage warehouse" does not include a
12 building or structure, or that part of such building or structure, in
13 which an activity taxable under RCW 82.04.272 is conducted.

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

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

20 SALES TAX EXEMPTION FOR CONSTRUCTION. (1) The tax levied by RCW
21 82.08.020 shall not apply to charges made for labor and services
22 rendered in respect to the constructing of new buildings used for the
23 manufacturing of semiconductor materials, to sales of tangible personal
24 property that will be incorporated as an ingredient or component of
25 such buildings during the course of the constructing, or to labor and
26 services rendered in respect to installing, during the course of
27 constructing, building fixtures not otherwise eligible for the
28 exemption under RCW 82.08.02565(2)(b). The exemption is available only
29 when the buyer provides the seller with an exemption certificate in a
30 form and manner prescribed by the department. The seller shall retain
31 a copy of the certificate for the seller's files.

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

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

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

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

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

23 (3) If the employment requirement is not met for any one calendar
24 year, one-eighth of the exempt sales and use taxes shall be due and
25 payable by April 1st of the following year. The department shall
26 assess interest to the date the tax was imposed, but not penalties, on
27 the taxes for which the person is not eligible.

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

31 (5) For the purposes of this section:

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

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

1 (c) "Semiconductor materials" has the same meaning as provided in
2 RCW 82.04.260(13).

3 (6) No exemption may be taken after July 1, 2017, however all of
4 the eligibility criteria and limitations are applicable to any
5 exemptions claimed before that date.

6 (7) This section expires July 1, 2017.

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

9 USE TAX EXEMPTION FOR CONSTRUCTION MATERIALS AND INSTALLATION
10 SERVICES. (1) The provisions of this chapter do not apply with respect
11 to the use of tangible personal property that will be incorporated as
12 an ingredient or component of new buildings used for the manufacturing
13 of semiconductor materials during the course of constructing such
14 buildings or to labor and services rendered in respect to installing,
15 during the course of constructing, building fixtures not otherwise
16 eligible for the exemption under RCW 82.08.02565(2)(b).

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

19 (3) No exemption may be taken after July 1, 2017, however all of
20 the eligibility criteria and limitations are applicable to any
21 exemptions claimed before that date.

22 (4) This section expires July 1, 2017.

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

25 SALES TAX EXEMPTION FOR GASES AND CHEMICALS. (1) The tax levied by
26 RCW 82.08.020 shall not apply to sales of gases and chemicals used by
27 a manufacturer or processor for hire in the manufacturing of
28 semiconductor materials. This exemption is limited to gases and
29 chemicals used in the manufacturing process to grow the product,
30 deposit or grow permanent or sacrificial layers on the product, to etch
31 or remove material from the product, to anneal the product, to immerse
32 the product, to clean the product, and other such uses whereby the
33 gases and chemicals come into direct contact with the product during
34 the manufacturing process, or uses of gases and chemicals to clean the

1 chambers and other like equipment in which such processing takes place.
2 For the purposes of this section, "semiconductor materials" has the
3 same meaning as provided in RCW 82.04.260(13).

4 (2) A person taking the exemption under this section must report
5 under section 11 of this act. No application is necessary for the tax
6 exemption. The person is subject to all of the requirements of chapter
7 82.32 RCW.

8 (3) This section expires July 1, 2017.

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

11 USE TAX EXEMPTION FOR GASES AND CHEMICALS. (1) The provisions of
12 this chapter do not apply with respect to the use of gases and
13 chemicals used by a manufacturer or processor for hire in the
14 manufacturing of semiconductor materials. This exemption is limited to
15 gases and chemicals used in the manufacturing process to grow the
16 product, deposit or grow permanent or sacrificial layers on the
17 product, to etch or remove material from the product, to anneal the
18 product, to immerse the product, to clean the product, and other such
19 uses whereby the gases and chemicals come into direct contact with the
20 product during the manufacturing process, or uses of gases and
21 chemicals to clean the chambers and other like equipment in which such
22 processing takes place. For purposes of this section, "semiconductor
23 materials" has the same meaning as provided in RCW 82.04.260(13).

24 (2) A person taking the exemption under this section must report
25 under section 11 of this act. No application is necessary for the tax
26 exemption. The person is subject to all of the requirements of chapter
27 82.32 RCW.

28 (3) This section expires July 1, 2017.

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

31 BUSINESS AND OCCUPATION TAX JOB CREDIT. (1) Subject to the limits
32 and provisions of this section, a credit is authorized against the tax
33 otherwise due under RCW 82.04.260(13) for persons engaged in the
34 business of manufacturing semiconductor materials. For the purposes of

1 this section "semiconductor materials" has the same meaning as provided
2 in RCW 82.04.260(13).

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

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

15 (c) In those situations where a production building in existence on
16 the effective date of this section will be phased out of operation,
17 during which time employment at the new building at the same site is
18 increased, the person is eligible for credit for employment at the
19 existing building and new building, with the limitation that the
20 combined eligible employment not exceed full employment at the new
21 building. "Full employment" has the same meaning as in section 5 of
22 this act. The credit may not be earned until the commencement of
23 commercial production, as that term is used in section 5 of this act.

24 (3) No application is necessary for the tax credit. The person is
25 subject to all of the requirements of chapter 82.32 RCW. In no case
26 may a credit earned during one calendar year be carried over to be
27 credited against taxes incurred in a subsequent calendar year. No
28 refunds may be granted for credits under this section.

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

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

3 (6) Credits may be taken after July 1, 2017, for those buildings at
4 which commercial production began before July 1, 2017, subject to all
5 of the eligibility criteria and limitations of this section.

6 (7) This section expires July 1, 2017.

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

9 PROPERTY TAX EXEMPTION FOR MANUFACTURING MACHINERY AND EQUIPMENT.

10 (1) Machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565
11 used in manufacturing semiconductor materials at a building exempt from
12 sales and use tax and in compliance with the employment requirement
13 under sections 5 and 6 of this act are tax exempt from taxation.
14 "Semiconductor materials" has the same meaning as provided in RCW
15 82.04.260(13).

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

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

20 (4) This section is effective for taxes levied for collection in
21 2006 and thereafter.

22 (5) This section expires December 31, 2017, for taxes levied for
23 collection in 2018.

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

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

30 (2)(a) A person who reports taxes under RCW 82.04.260(13) or who
31 claims an exemption or credit under sections 5 through 10 of this act,
32 shall make an annual report to the department detailing employment,
33 wages, and employer-provided health and retirement benefits per job at
34 the manufacturing site. The report shall not include names of
35 employees. The report shall also detail employment by the total number

1 of full-time, part-time, and temporary positions. The first report
2 filed under this subsection shall include employment, wage, and benefit
3 information for the twelve-month period immediately before first use of
4 a preferential tax rate under RCW 82.04.260(13), or tax exemption or
5 credit under sections 5 through 10 of this act. The report is due by
6 March 31st following any year in which a preferential tax rate under
7 RCW 82.04.260(13) is used, or tax exemption or credit under sections 5
8 through 10 of this act is taken. This information is not subject to
9 the confidentiality provisions of RCW 82.32.330 and may be disclosed to
10 the public upon request.

11 (b) If a person fails to submit an annual report under (a) of this
12 subsection the department shall declare the amount of taxes exempted or
13 credited for that year to be immediately due and payable. Excise taxes
14 payable under this subsection are subject to interest, as provided
15 under this chapter. This information is not subject to the
16 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
17 public upon request.

18 (3) By November 1, 2010, and November 1, 2016, the fiscal
19 committees of the house of representatives and the senate, in
20 consultation with the department, shall report to the legislature on
21 the effectiveness of chapter . . . , Laws of 2003 (this act) in regard
22 to keeping Washington competitive. The report shall measure the effect
23 of chapter . . . , Laws of 2003 (this act) on job retention, net jobs
24 created for Washington residents, company growth, diversification of
25 the state's economy, cluster dynamics, and other factors as the
26 committees select. The reports shall include a discussion of
27 principles to apply in evaluating whether the legislature should
28 reenact any or all of the tax preferences in chapter . . . , Laws of
29 2003 (this act).

30 NEW SECTION. **Sec. 12.** CAPTIONS. Captions used in this act are
31 not part of the law.

32 NEW SECTION. **Sec. 13.** This act takes effect July 1, 2005."

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