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**SUBSTITUTE SENATE BILL 5181**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Benton, Mulliken, Eide, McCaslin, T. Sheldon and Esser)

READ FIRST TIME 04/07/03.

1 AN ACT Relating to extending the expiration date on the tax credit  
2 for software companies in rural counties; amending RCW 82.04.4456; and  
3 providing an expiration date.

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

5 **Sec. 1.** RCW 82.04.4456 and 2000 c 106 s 11 are each amended to  
6 read as follows:

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

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

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

18 (b) If an activity is conducted both from a rural county and  
19 outside of a rural county, the credit is available if at least ninety

1 percent of the qualifying activity is conducted within a rural county.  
2 If the qualifying activity is a service taxable activity, the place  
3 where the work is performed is the place at which the activity is  
4 conducted.

5 (4)(a) The credit under this section shall equal one thousand  
6 dollars for each qualified employment position created after July 1,  
7 1999, in an eligible area. A credit is earned for the calendar year  
8 the person is hired to fill the position. Additionally a credit is  
9 earned for each year the position is maintained over the subsequent  
10 consecutive years, up to four years. The county must meet the  
11 definition of a rural county at the time the position is filled. If  
12 the county does not have a rural county status the following year or  
13 years, the position is still eligible for the remaining years if all  
14 other conditions are met.

15 (b) Credit may not be taken for hiring of persons into positions  
16 that exist before July 1, 1999. Credit is authorized for new employees  
17 hired for new positions created on or after July 1, 1999. New  
18 positions filled by existing employees are eligible for the credit  
19 under this section only if the position vacated by the existing  
20 employee is filled by a new hire. A business that is a sole  
21 proprietorship without any employees is equivalent to one employee  
22 position and this type of business is eligible to receive credit for  
23 one position.

24 (c) If a position is filled before July 1st, this position is  
25 eligible for the full yearly credit for that calendar year. If it is  
26 filled after June 30th, this position is eligible for half of the  
27 credit for that calendar year.

28 (d) A person that has engaged in qualifying activities in the rural  
29 county before August 1, 1999, qualifies for the credit under this  
30 section for positions created and filled after August 1, 1999.

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

37 (6) If at any time the department finds that a person is not  
38 eligible for tax credit under this section, the amount of taxes for

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

8 (7) The credit under this section may be used against any tax due  
9 under this chapter, but in no case may a credit earned during one  
10 calendar year be carried over to be credited against taxes incurred in  
11 a subsequent calendar year. A person is not eligible to receive a  
12 credit under this section if the person is receiving credit for the  
13 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking  
14 the credit under RCW 82.04.4457. No refunds may be granted for credits  
15 under this section.

16 (8) A person taking tax credits under this section shall make an  
17 annual report to the department. The report shall be in a letter form  
18 and shall include the following information: Number of positions for  
19 which credit is being claimed, type of position for which credit is  
20 being claimed, type of activity in which the person is engaged in the  
21 county, how long the person has been located in the county, and  
22 taxpayer name and registration number. The report must be filed by  
23 January 30th of each year for which credit was claimed during the  
24 previous year. Failure to file a report will not result in the loss of  
25 eligibility under this section. However, the department, through its  
26 research division, shall contact taxpayers who have not filed the  
27 report and obtain the data from the taxpayer or assist the taxpayer in  
28 the filing of the report, so that the data and information necessary to  
29 measure the program's effectiveness is maintained.

30 (9) Transfer of ownership does not affect credit eligibility.  
31 However, the successive credits are available to the successor for  
32 remaining periods in the five years only if the eligibility conditions  
33 of this section are met.

34 (10) As used in this section:  
35 (a) "Manufacturing" means the same as "to manufacture" under RCW  
36 82.04.120. Manufacturing includes the activities of both manufacturers  
37 and processors for hire.

1 (b) "Programming" means the activities that involve the creation or  
2 modification of software, as that term is defined in this chapter, and  
3 that are taxable as a service under RCW 82.04.290(2) or as a retail  
4 sale under RCW 82.04.050.

5 (c) "Qualifying activity" means manufacturing of software or  
6 programming.

7 (d) "Qualified employment position" means a permanent full-time  
8 position doing programming of software or manufacturing of software.  
9 This excludes administrative, professional, service, executive, and  
10 other similar positions. If an employee is either voluntarily or  
11 involuntarily separated from employment, the employment position is  
12 considered filled on a full-time basis if the employer is either  
13 training or actively recruiting a replacement employee. Full-time  
14 means a position for at least thirty-five hours a week.

15 (e) "Rural county" means a county with a population density of less  
16 than one hundred persons per square mile as determined by the office of  
17 financial management and published each year by the department for the  
18 period July 1st to June 30th.

19 (f) "Software" has the same meaning as defined in RCW 82.04.215.

20 (11) No credit may be taken or accrued under this section on or  
21 after January 1, (~~2004~~) 2008.

22 (12) This section expires (~~December 31, 2003~~) January 1, 2008.

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