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**SUBSTITUTE HOUSE BILL 1894**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Sullivan, Wilcox, Slatter, Stokesbary, Buys, Tarleton, Senn, Haler, Goodman, and Stanford; by request of Office of Financial Management)

1 AN ACT Relating to reinstating tax preferences for certain high-  
2 technology research and development; amending RCW 82.63.010,  
3 82.63.020, and 82.63.045; reenacting RCW 82.63.060 and 82.63.065;  
4 adding a new section to chapter 82.04 RCW; adding a new section to  
5 chapter 82.63 RCW; creating a new section; and providing expiration  
6 dates.

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

8 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
9 performance statement for the tax credit contained in section 2 of  
10 this act and the tax deferrals contained in sections 3 through 8 of  
11 this act. This performance statement is only intended to be used for  
12 subsequent evaluation of the tax preferences. It is not intended to  
13 create a private right of action by any party or be used to determine  
14 eligibility for preferential tax treatment.

15 (2) The legislature categorizes these tax preferences as intended  
16 to improve industry competitiveness and create or retain jobs, as  
17 indicated in RCW 82.32.808(2) (b) and (c).

18 (3) It is the legislature's specific public policy objective to  
19 improve industry competitiveness and create or retain more jobs. It  
20 is the legislature's intent to provide a business and occupation tax  
21 credit for advanced spacecraft manufacturing, life science, and

1 environmental technology companies performing research and  
2 development, and a sales and use tax deferral for certain  
3 construction for new and expanding companies conducting research and  
4 development in the fields of advanced spacecraft manufacturing, life  
5 science, and environmental technology in order to reduce the business  
6 costs of performing research and development and to reduce the cost  
7 of certain construction and equipment purchases used for research and  
8 development in specified areas, thereby encouraging investments in  
9 research and development, thereby increasing the number of firms in  
10 the industry performing research and development activities, thereby  
11 increasing the number of jobs performing research and development in  
12 the advanced spacecraft manufacturing, life science, and  
13 environmental technology industries.

14 (4) If a review finds that the number of businesses participating  
15 in the credit and deferral programs has increased and the overall  
16 number of jobs for businesses participating in the credit and  
17 deferral programs performing research and development has increased  
18 by a minimum of one hundred twenty-five direct jobs and three hundred  
19 fifteen indirect jobs from the time of enactment, then the  
20 legislature intends to extend the expiration date of the tax  
21 preferences.

22 (5) In order to obtain the data necessary to perform the review  
23 in subsection (4) of this section, the joint legislative audit and  
24 review committee may refer to: (a) Employment data available from the  
25 employment security department; (b) return and tax information  
26 maintained by the department of revenue; and (c) any other data as  
27 the joint legislative audit and review committee deems useful.

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

30 (1) Beginning January 1, 2018, a credit against the tax imposed  
31 under this chapter is allowed for each person whose research and  
32 development spending during the year in which the credit is claimed  
33 exceeds 0.92 percent of the person's taxable amount during the same  
34 calendar year.

35 (2) To be eligible for the credit under this section for research  
36 and development conducted in advanced spacecraft manufacturing, a  
37 person must, as of January 1, 2018:

- 38 (a) Have an active tax registration with the department; and  
39 (b) Be actively engaged in advanced spacecraft manufacturing.

1 (3)(a) Any person claiming the tax credit in this section must  
2 disclose the payload of any spacecraft launched into space by that  
3 person in the same calendar year for which the credit is claimed. If  
4 the payload includes a satellite, the following must also be  
5 disclosed about the satellite:

- 6 (i) The true owner;
- 7 (ii) Capabilities; and
- 8 (iii) Purpose.

9 (b) Disclosure must be made to the department in a form and  
10 manner prescribed by the department. The contents of the disclosure  
11 are not considered confidential taxpayer information under RCW  
12 84.08.210.

13 (4) Disclosure and reporting obligations in subsection (3) of  
14 this section do not apply to any payload subject to review and  
15 approval by a federal agency, if a signed attestation, which includes  
16 the reviewing agency, any review or approval, and case number or file  
17 number is provided to the department. The attestation document is not  
18 considered confidential taxpayer information under RCW 84.08.210.

19 (5) A person's credit is calculated as follows:

20 (a) Determine the greater of the amount of (i) the person's  
21 qualified research and development expenditures or (ii) eighty  
22 percent of amounts received by the person, other than a public  
23 educational or research institution, in compensation for the conduct  
24 of qualified research and development actually performed directly by  
25 the person;

26 (b) Subtract 0.92 percent of the person's taxable amount from the  
27 amount determined under (a) of this subsection;

28 (c) Multiply the amount determined under (b) of this subsection  
29 by 1.50 percent.

30 (6) Any person entitled to the credit provided in this section as  
31 a result of qualified research and development conducted under  
32 contract may assign all or any portion of the credit to the person  
33 contracting for the performance of the qualified research and  
34 development.

35 (7) Any person entitled to a credit provided in this section may  
36 not also receive a sales and use tax deferral provided in section 5  
37 of this act.

38 (8) The credit, including any credit assigned to a person under  
39 subsection (6) of this section, must be claimed against taxes due for  
40 the same calendar year in which the qualified research and

1 development expenditures are incurred. The credit, including any  
2 credit assigned to a person under subsection (6) of this section, for  
3 each calendar year may not exceed the lesser of seven hundred fifty  
4 thousand dollars or the amount of tax otherwise due under this  
5 chapter for the calendar year.

6 (9)(a) Any person entitled to a credit provided in this section  
7 may not claim the credit against taxes due until the following  
8 information is provided to the department:

9 (i) The number of jobs the person intends to create as a result  
10 of receiving the credit; and

11 (ii) The type of research and development jobs the person intends  
12 to create.

13 (b) Information provided to the department under this subsection  
14 (9) does not need to be provided each time a credit is claimed under  
15 this section, but must be updated if there are any changes to the  
16 information provided.

17 (10) For any person claiming the credit, including any credit  
18 assigned to a person under subsection (6) of this section, whose  
19 research and development spending during the calendar year in which  
20 the credit is claimed fails to exceed 0.92 percent of the person's  
21 taxable amount during the same calendar year or who is otherwise  
22 ineligible, the department must declare the taxes against which the  
23 credit was claimed to be immediately due and payable. The department  
24 must assess interest on the taxes against which the credit was  
25 claimed. However, the department may not assess penalties on taxes  
26 due under this subsection, unless the person who claimed the credit  
27 did not engage in any qualified research and development during the  
28 calendar year for which the tax credit was claimed. Interest must be  
29 assessed at the rate provided for delinquent excise taxes under  
30 chapter 82.32 RCW, retroactively to the date the credit was claimed,  
31 and accrues until the taxes against which the credit was claimed are  
32 repaid. Any credit assigned to a person under subsection (6) of this  
33 section that is disallowed as a result of this subsection may be  
34 claimed by the person who performed the qualified research and  
35 development, subject to the limitations set forth in subsection (8)  
36 of this section.

37 (11) A person claiming the credit provided in this section must  
38 file a complete annual survey with the department under  
39 RCW 82.32.585.

1 (12) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Advanced spacecraft manufacturing" has the same meaning as  
4 in RCW 82.63.010.

5 (b) "Payload" has the same meaning as provided in RCW 82.63.010.

6 (c) "Qualified research and development" has the same meaning as  
7 in RCW 82.63.010.

8 (d) "Qualified research and development expenditures" means  
9 operating expenses, including wages, compensation of a proprietor or  
10 a partner in a partnership as determined under rules adopted by the  
11 department, benefits, supplies, and computer expenses, directly  
12 incurred in qualified research and development by a person claiming  
13 the credit provided in this section. The term does not include  
14 amounts paid to a person, other than a public educational or research  
15 institution, to conduct qualified research and development. Nor does  
16 the term include capital costs and overhead, such as expenses for  
17 land, structures, or depreciable property.

18 (e) "Research and development spending" means qualified research  
19 and development expenditures plus eighty percent of amounts paid to a  
20 person, other than a public educational or research institution, to  
21 conduct qualified research and development.

22 (f) "Satellite" has the same meaning as provided in RCW  
23 82.63.010.

24 (g) "Spacecraft" has the same meaning as provided in RCW  
25 82.63.010.

26 (h) "Taxable amount" means the taxable amount subject to the tax  
27 imposed in this chapter required to be reported on the person's  
28 combined excise tax returns for the calendar year for which the  
29 credit is claimed, less any taxable amount for which a credit is  
30 allowed under RCW 82.04.440.

31 (13) This section expires January 1, 2027.

32 **Sec. 3.** RCW 82.63.010 and 2015 3rd sp.s. c 5 s 303 are each  
33 amended to read as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the context clearly requires otherwise.

36 (1) (~~"Advanced computing" means technologies used in the~~  
37 ~~designing and developing of computing hardware and software,~~  
38 ~~including innovations in designing the full spectrum of hardware from~~  
39 ~~handheld calculators to super computers, and peripheral equipment.~~

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

5 ~~(3)) (a) "Advanced spacecraft manufacturing" means the~~  
6 ~~application of technologies, in the design and development of~~  
7 ~~spacecraft, by a manufacturer of spacecraft.~~

8 ~~(b) For purposes of this subsection (1), the following~~  
9 ~~definitions apply:~~

10 ~~(i) "Commercial or industrial use" and "manufacturer" have the~~  
11 ~~same meaning as in chapter 82.04 RCW.~~

12 ~~(ii) "Spacecraft" means a device, and its components, designed~~  
13 ~~for suborbital space flight or to operate in, or place a payload in,~~  
14 ~~outer space, including satellites, but only when such device is~~  
15 ~~intended for sale or commercial or industrial use. For the purposes~~  
16 ~~of this subsection (1)(b)(ii):~~

17 ~~(A) "Payload" means crew, instruments, material, components, or~~  
18 ~~equipment carried by a spacecraft.~~

19 ~~(B) "Satellite" means a man-made object or vehicle intended to~~  
20 ~~orbit the earth, the moon, or other celestial object, that is used to~~  
21 ~~collect information and provide communication services, or perform~~  
22 ~~repair, manufacturing, assembly, or transport services in the space~~  
23 ~~environment.~~

24 ~~(2) "Applicant" means a person applying for a tax deferral under~~  
25 ~~this chapter.~~

26 ~~((4)) (3) "Biotechnology" means the application of~~  
27 ~~technologies, such as recombinant DNA techniques, biochemistry,~~  
28 ~~molecular and cellular biology, genetics and genetic engineering,~~  
29 ~~cell fusion techniques, and new bioprocesses, using living organisms,~~  
30 ~~or parts of organisms, to produce or modify products, to improve~~  
31 ~~plants or animals, to develop microorganisms for specific uses, to~~  
32 ~~identify targets for small molecule pharmaceutical development, or to~~  
33 ~~transform biological systems into useful processes and products or to~~  
34 ~~develop microorganisms for specific uses.~~

35 ~~((5) "Department" means the department of revenue.~~

36 ~~(6) "Electronic device technology" means technologies involving~~  
37 ~~microelectronics; semiconductors; electronic equipment and~~  
38 ~~instrumentation; radio frequency, microwave, and millimeter~~  
39 ~~electronics; optical and optic-electrical devices; and data and~~  
40 ~~digital communications and imaging devices.~~

1       ~~(7))~~ (4) "Eligible investment project" means an investment  
2 project which either initiates a new operation, or expands or  
3 diversifies a current operation by expanding, renovating, or  
4 equipping an existing facility. The lessor or owner of the qualified  
5 building is not eligible for a deferral unless:

6       (a) The underlying ownership of the buildings, machinery, and  
7 equipment vests exclusively in the same person; or

8       (b)(i) The lessor by written contract agrees to pass the economic  
9 benefit of the deferral to the lessee;

10       (ii) The lessee that receives the economic benefit of the  
11 deferral agrees in writing with the department to complete the annual  
12 survey required under RCW 82.63.020(~~(+2))~~ (5); and

13       (iii) The economic benefit of the deferral passed to the lessee  
14 is no less than the amount of tax deferred by the lessor and is  
15 evidenced by written documentation of any type of payment, credit, or  
16 other financial arrangement between the lessor or owner of the  
17 qualified building and the lessee.

18       (~~(+8))~~ (5) "Environmental technology" means assessment and  
19 prevention of threats or damage to human health or the environment,  
20 environmental cleanup, and the development of alternative energy  
21 sources.

22       (~~(+9))~~ (6)(a) "Initiation of construction" means the date that a  
23 building permit is issued under the building code adopted under RCW  
24 19.27.031 for:

25       (i) Construction of the qualified building, if the underlying  
26 ownership of the building vests exclusively with the person receiving  
27 the economic benefit of the deferral;

28       (ii) Construction of the qualified building, if the economic  
29 benefits of the deferral are passed to a lessee as provided in  
30 subsection (~~(+7))~~ (4) of this section; or

31       (iii) Tenant improvements for a qualified building, if the  
32 economic benefits of the deferral are passed to a lessee as provided  
33 in subsection (~~(+7))~~ (4) of this section.

34       (b) "Initiation of construction" does not include soil testing,  
35 site clearing and grading, site preparation, or any other related  
36 activities that are initiated before the issuance of a building  
37 permit for the construction of the foundation of the building.

38       (c) If the investment project is a phased project, "initiation of  
39 construction" (~~(shall apply)~~) applies separately to each phase.

1       (~~(10)~~) (7) "Investment project" means an investment in  
2 qualified buildings or qualified machinery and equipment, including  
3 labor and services rendered in the planning, installation, and  
4 construction or improvement of the project.

5       (8) "Life science" means the application of technologies in the  
6 fields of biotechnology and medical devices, including clinical  
7 trials and the organizing of clinical trial participants.

8       (9) "Meaningful construction" means an active construction site,  
9 where excavation of a building site, laying of a building foundation,  
10 or other tangible signs of construction are taking place and that  
11 clearly shows a progression in the construction process, at the  
12 location designated by the taxpayer in the application for deferral.  
13 Planning, permitting, or land clearing before excavation of the  
14 building site, without more, does not constitute meaningful  
15 construction.

16       (10) "Medical device" means an instrument, apparatus, implement,  
17 machine, contrivance, implant, in vitro reagent, or other similar or  
18 related article, including any component, part, or accessory, that is  
19 designed or developed and:

20       (a) Recognized in the national formulary, or the United States  
21 pharmacopeia, or any supplement to them;

22       (b) Intended for use in the diagnosis of disease, or in the cure,  
23 mitigation, treatment, or prevention of disease or other conditions  
24 in human beings or other animals; or

25       (c) Intended to affect the structure or any function of the body  
26 of human beings or other animals, and which does not achieve any of  
27 its primary intended purposes through chemical action within or on  
28 the body of human beings or other animals and which is not dependent  
29 upon being metabolized for the achievement of any of its principal  
30 intended purposes.

31       (11) "Multiple qualified buildings" means qualified buildings  
32 leased to the same person when:

33       (a) Such structures(~~(+—(a))~~) are located within a five-mile  
34 radius; and

35       (b) The initiation of construction of each building begins within  
36 a sixty-month period.

37       (12)(a) "Person" has the meaning given in RCW 82.04.030 and  
38 includes state universities as defined in RCW 28B.10.016. Person also  
39 includes any affiliate of a person.

40       (b) For purposes of this subsection (12):



1 (i) "Affiliate" means a person who controls, is controlled by, or  
2 is under common control with another person; and

3 (ii) "Control" means the possession, directly or indirectly, of  
4 more than twenty percent of the power to direct or cause the  
5 direction of the management and policies of a person, whether through  
6 the ownership of voting shares, by contract, or otherwise.

7 (13) "Pilot scale manufacturing" means design, construction, and  
8 testing of preproduction prototypes and models in the fields of  
9 (~~biotechnology, advanced computing, electronic device technology,~~  
10 ~~advanced materials~~) advanced spacecraft manufacturing, life science,  
11 and environmental technology other than for commercial sale. As used  
12 in this subsection, "commercial sale" excludes sales of prototypes or  
13 sales for market testing if the total gross receipts from such sales  
14 of the product, service, or process do not exceed (~~one million~~)  
15 seven hundred fifty thousand dollars.

16 (14) "Qualified buildings" means construction of new structures,  
17 and expansion or renovation of existing structures for the purpose of  
18 increasing floor space or production capacity used for pilot scale  
19 manufacturing or qualified research and development, including plant  
20 offices and other facilities that are an essential or an integral  
21 part of a structure used for pilot scale manufacturing or qualified  
22 research and development. Areas used for amusement and recreational  
23 activities, physical fitness activities, parking, the selling or  
24 furnishing of meals or other food and beverages, or similar  
25 commercial and noncommercial activities are not essential or integral  
26 to pilot scale manufacturing or qualified research and development.  
27 If a building or buildings are used partly for pilot scale  
28 manufacturing or qualified research and development, and partly for  
29 other purposes, the applicable tax deferral (~~shall~~) must be  
30 determined by apportionment of the costs of construction under rules  
31 adopted by the department. Such rules may include provisions for  
32 determining the amount of the deferral based on apportionment of  
33 costs of construction of an investment project consisting of a  
34 building or multiple buildings, where qualified research and  
35 development or pilot scale manufacturing activities are shifted  
36 within a building or from one building to another building.

37 (15)(a) "Qualified machinery and equipment" means fixtures,  
38 equipment, and support facilities that are an integral and necessary  
39 part of a pilot scale manufacturing or qualified research and  
40 development operation. "Qualified machinery and equipment" includes:

1 Computers; software; data processing equipment; laboratory equipment,  
2 instrumentation, and other devices used in a process of  
3 experimentation to develop a new or improved pilot model, plant  
4 process, product, formula, invention, or similar property;  
5 manufacturing components such as belts, pulleys, shafts, and moving  
6 parts; molds, tools, and dies; vats, tanks, and fermenters; operating  
7 structures; and all other equipment used to control, monitor, or  
8 operate the machinery. For purposes of this chapter, qualified  
9 machinery and equipment must be either new to the taxing jurisdiction  
10 of the state or new to the certificate holder, except that used  
11 machinery and equipment may be treated as qualified machinery and  
12 equipment if the certificate holder either brings the machinery and  
13 equipment into Washington or makes a retail purchase of the machinery  
14 and equipment in Washington or elsewhere.

15 (b) "Qualified machinery and equipment" does not include any  
16 fixtures, equipment, or support facilities, if the sale to or use by  
17 the recipient is not eligible for an exemption under RCW 82.08.02565  
18 or 82.12.02565 solely because the recipient is an ineligible person  
19 as defined in RCW 82.08.02565.

20 (16) "Qualified research and development" means research and  
21 development performed within this state in the fields of (~~advanced~~  
22 ~~computing, advanced materials, biotechnology, electronic device~~  
23 ~~technology~~) advanced spacecraft manufacturing, life science, and  
24 environmental technology.

25 (17) "Recipient" means a person receiving a tax deferral under  
26 this chapter.

27 (18) "Research and development" means activities performed to  
28 discover technological information, and technical and nonroutine  
29 activities concerned with translating technological information into  
30 new or improved products, processes, techniques, formulas,  
31 inventions, or software, including clinical trials and organization  
32 of clinical trial participants. The term includes exploration of a  
33 new use for an existing drug, device, or biological product if the  
34 new use requires separate licensing by the federal food and drug  
35 administration under chapter 21, C.F.R., as amended. The term does  
36 not include adaptation or duplication of existing products where the  
37 products are not substantially improved by application of the  
38 technology, nor does the term include surveys and studies, social  
39 science and humanities research, market research or testing, quality  
40 control, sale promotion and service, computer software developed for

1 internal use, and research in areas such as improved style, taste,  
2 and seasonal design.

3 **Sec. 4.** RCW 82.63.020 and 2010 c 114 s 140 are each amended to  
4 read as follows:

5 (1) A person is not eligible for a tax deferral under this  
6 chapter for an investment project to be used for research and  
7 development performed within this state in advanced spacecraft  
8 manufacturing unless, as of January 1, 2018, the person:

9 (a) Has an active tax registration with the department; and

10 (b) Is actively engaged in advanced spacecraft manufacturing.

11 (2)(a) Application for deferral of taxes under this chapter must  
12 be made to the department before initiation of construction of, or  
13 acquisition of equipment or machinery for the investment project. In  
14 the case of an investment project involving multiple qualified  
15 buildings, applications must be made for, and before the initiation  
16 of construction of, each qualified building, and must be received by  
17 the department before January 1, 2015. The application must be made  
18 to the department in a form and manner prescribed by the department.  
19 The application must contain information regarding the location of  
20 the investment project, the applicant's average employment in the  
21 state for the prior year, estimated or actual new employment related  
22 to the project, estimated or actual wages of employees related to the  
23 project, estimated or actual costs, time schedules for completion and  
24 operation, and other information required by the department. The  
25 department must rule on the application within sixty days. The  
26 department must deny any applications received between January 1,  
27 2015, and December 31, 2017, inclusive, or after October 31, 2026.  
28 For investment projects involving multiple qualified buildings, the  
29 department must deny any applications received after December 31,  
30 2015.

31 (b) Nothing in this subsection (2) may be construed to allow a  
32 tax deferral for an investment project for which an application for  
33 deferral under this chapter was denied by the department before  
34 January 1, 2015.

35 (3) The department will approve applications that indicate  
36 meaningful construction of an eligible investment project will occur  
37 within five years of the date of application. Applications indicating  
38 that meaningful construction of an eligible investment project will  
39 not occur within two years of the date of the application may be

1 required to include additional documentation about the investment  
2 project, such as project milestones and other information the  
3 department may require. Applications that do not indicate meaningful  
4 construction will occur within five years of the date of application  
5 must be denied.

6 (4)(a) Recipients may amend an approved deferral application to  
7 update the completion date, estimated expenses, the square footage of  
8 the investment project, or other information about the investment  
9 project. Amendments must be made in a form and manner prescribed by  
10 the department.

11 (b) Requests to amend a previously approved application for an  
12 investment project for which meaningful construction has not  
13 commenced within five years of the date of the initial application  
14 must be denied.

15 ~~((+2))~~ (5) Each recipient of a deferral of taxes under this  
16 chapter must file a complete annual survey with the department under  
17 RCW 82.32.585. If the economic benefits of the deferral are passed to  
18 a lessee as provided in RCW 82.63.010~~((+7))~~ (4), the lessee must  
19 file a complete annual survey, and the applicant is not required to  
20 file the annual survey.

21 ~~((+3) The department must use the information reported on the~~  
22 ~~annual survey required by this section to study the tax deferral~~  
23 ~~program authorized under this chapter. The department must report to~~  
24 ~~the legislature by December 1, 2009, and December 1, 2013. The~~  
25 ~~reports must measure the effect of the program on job creation, the~~  
26 ~~number of jobs created for Washington residents, company growth, the~~  
27 ~~introduction of new products, the diversification of the state's~~  
28 ~~economy, growth in research and development investment, the movement~~  
29 ~~of firms or the consolidation of firms' operations into the state,~~  
30 ~~and such other factors as the department selects.~~

31 ~~(+4))~~ (6) A recipient who must repay deferred taxes under RCW  
32 82.63.045 ~~((because the department has found that an investment~~  
33 ~~project is used for purposes other than research and development~~  
34 ~~performed within this state in the fields of advanced computing,~~  
35 ~~advanced materials, biotechnology, electronic device technology, and~~  
36 ~~environmental technology)) is no longer required to file annual~~  
37 ~~surveys under RCW 82.32.585 ((beginning on the date an investment~~  
38 ~~project is used for nonqualifying purposes)).~~

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 82.63  
2    RCW to read as follows:

3        (1)(a)    Except as otherwise provided in this section, the  
4    department must issue a sales and use tax deferral certificate for  
5    state and local sales and use taxes due under chapters 82.08, 82.12,  
6    82.14, and 81.104 RCW on each eligible investment project.

7        (b)    The amount of tax imposed under chapters 82.08 and 82.12 RCW  
8    eligible for deferral under a certificate issued pursuant to this  
9    section is limited to seven hundred fifty thousand dollars per  
10    eligible investment project per person. Once a person reaches the  
11    seven hundred fifty thousand dollar limit in this subsection (1)(b),  
12    the person may no longer defer under this chapter any state or local  
13    sales or use taxes due on the eligible investment project.

14        (2)    The department may not issue deferral certificates under this  
15    section before January 1, 2018.

16        (3)    Only one eligible investment project per person qualifies for  
17    a deferral certificate under this section during a calendar year.

18        (4)    No certificate may be issued for an investment project that  
19    has already received a deferral under chapter 82.60 RCW, or this  
20    chapter, except that an investment project for qualified research and  
21    development that has already received a deferral may also receive an  
22    additional deferral certificate for adapting the investment project  
23    for use in pilot scale manufacturing.

24        (5)    Any person receiving a deferral provided in this section may  
25    not also receive a business and occupation tax credit provided in  
26    section 2 of this act.

27        (6)    This section expires January 1, 2027.

28        **Sec. 6.**    RCW 82.63.045 and 2010 c 114 s 141 are each amended to  
29    read as follows:

30        (1)    Except as provided in subsection (2) of this section and RCW  
31    82.32.585, taxes deferred under this chapter need not be repaid.

32        (2)(a)    If, on the basis of the survey under RCW 82.32.585 or  
33    other information, the department finds that an investment project is  
34    used for purposes other than qualified research and development or  
35    pilot scale manufacturing at any time during the calendar year in  
36    which the investment project is certified by the department as having  
37    been operationally completed, or at any time during any of the seven  
38    succeeding calendar years, a portion of deferred taxes is immediately  
39    due according to the following schedule:

	Year in which use occurs	% of deferred taxes due
1		
2	1	100%
3	2	87.5%
4	3	75%
5	4	62.5%
6	5	50%
7	6	37.5%
8	7	25%
9	8	12.5%

10        (b) If the department finds that meaningful construction of an  
11 investment project did not begin within five years of the date of the  
12 application or that an investment project is not operationally  
13 complete within ten years of the date of the initial application for  
14 deferral, the full amount of deferred taxes is immediately due.

15        (c) If the economic benefits of the deferral are passed to a  
16 lessee as provided in RCW 82.63.010((+7)) (4), the lessee is  
17 responsible for payment to the extent the lessee has received the  
18 economic benefit.

19        (3)(a) Notwithstanding subsection (2) of this section, in the  
20 case of an investment project consisting of multiple qualified  
21 buildings, the lessee is solely liable for payment of any deferred  
22 tax determined by the department to be due and payable under this  
23 section beginning on the date ~~((the department certifies))~~ that the  
24 project is operationally complete as certified by the department.

25        (b) This subsection does not relieve the lessors of its  
26 obligation to the lessee under RCW 82.63.010((+7)) (4) to pass the  
27 economic benefit of the deferral to the lessee.

28        (4) The department must assess interest at the rate provided for  
29 delinquent taxes, but not penalties, retroactively to the date of  
30 deferral. The debt for deferred taxes will not be extinguished by  
31 insolvency or other failure of the recipient. Transfer of ownership  
32 does not terminate the deferral, unless the successor does not agree  
33 in writing with the department to be bound by the eligibility  
34 requirements of this chapter. The deferral is transferred, subject to  
35 the successor meeting the eligibility requirements of this chapter,  
36 for the remaining periods of the deferral.

1 (5) Notwithstanding subsection (2) of this section or RCW  
2 82.32.585, deferred taxes on the following need not be repaid:

3 (a) Machinery and equipment, and sales of or charges made for  
4 labor and services, which at the time of purchase would have  
5 qualified for 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 **Sec. 7.** RCW 82.63.060 and 1994 sp.s. c 5 s 8 are each reenacted  
9 to read as follows:

10 Chapter 82.32 RCW applies to the administration of this chapter.

11 **Sec. 8.** RCW 82.63.065 and 2009 c 268 s 6 are each reenacted to  
12 read as follows:

13 The department may adopt rules as may be necessary to administer  
14 this chapter.

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