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**HOUSE BILL 2665**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representative Boehnke

1 AN ACT Relating to encouraging economic growth in Washington by  
2 providing tax preferences for advanced spacecraft manufacturing;  
3 amending RCW 82.63.010, 82.63.020, and 82.63.045; adding a new  
4 section to chapter 82.04 RCW; adding a new section to chapter 82.63  
5 RCW; creating new sections; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the vitality of  
8 Washington state's economy for the foreseeable future will be  
9 strongly influenced by our ability to attract and retain the most  
10 talented, innovative, hard-working, and entrepreneurial engineers,  
11 scientists, and technicians. Because Washington is a small state by  
12 population, we do not produce the number of science and engineering  
13 doctorates that more populous states and nations do, and we must  
14 therefore seek to attract talent in a highly competitive environment.  
15 The legislature further finds that providing incentives for research  
16 and development in advanced spacecraft manufacturing would reduce the  
17 business costs associated with research and development in advanced  
18 spacecraft manufacturing, thereby encouraging investments in research  
19 and development, thereby increasing the number of firms in the  
20 industry and increasing the number of highly skilled and talented

1 engineers, scientists, and technicians performing research and  
2 development in Washington.

3 The legislature finds that the economic sectors that drive a high  
4 standard of living share three characteristics: (1) Have an abundant  
5 equipment investment, (2) attract highly skilled workers, and (3)  
6 invest in innovations. The legislature finds that advanced spacecraft  
7 manufacturing shares these characteristics. The legislature further  
8 finds that the rest of the economy benefits enormously from spillover  
9 effects in related industries of investment in the sectors that drive  
10 a high standard of living.

11 The legislature finds further that the research and development  
12 done in Washington is funded overwhelmingly by industry, not by  
13 government or universities. The current federal government research  
14 dollars that flow to Washington overwhelmingly come from the national  
15 institutes of health for health sciences research. The legislature  
16 finds that it would promote long-term economic vibrancy in Washington  
17 to create a research and development tax credit program to diversify  
18 opportunities for federal research dollars in fields such as the new  
19 space economy where we have a competitive and emerging cluster of  
20 innovative employers.

21 Therefore, the legislature intends to provide a business and  
22 occupation tax credit for advanced spacecraft manufacturing research  
23 and development, and a sales and use tax deferral for new and  
24 expanding advanced spacecraft manufacturing companies for certain  
25 research and development construction costs, for the purpose of  
26 encouraging the migration of these businesses to Washington to create  
27 and retain good wage jobs for the state.

28 NEW SECTION. **Sec. 2.** (1) This section is the tax preference  
29 performance statement for the tax preferences in sections 3 through  
30 7, chapter . . . , Laws of 2020 (sections 3 through 7 of this act).  
31 This performance statement is only intended to be used for subsequent  
32 evaluation of the tax preferences. It is not intended to create a  
33 private right of action by any party or be used to determine  
34 eligibility for preferential tax treatment.

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

38 (3) It is the legislature's specific public policy objective to  
39 improve industry competitiveness and create or retain more jobs. It

1 is the legislature's intent to provide a business and occupation tax  
2 credit for advanced spacecraft manufacturing performing research and  
3 development, and a sales and use tax deferral for certain  
4 construction for new and expanding companies conducting research and  
5 development in the fields of advanced spacecraft manufacturing in  
6 order to reduce the business costs of performing research and  
7 development and to reduce the cost of certain construction and  
8 equipment purchases used for research and development in advanced  
9 spacecraft manufacturing, thereby encouraging investments in research  
10 and development, thereby increasing the number of firms in the  
11 industry performing research and development activities, thereby  
12 increasing the number of jobs performing research and development in  
13 advanced spacecraft manufacturing.

14 (4) If a review finds that the number of businesses participating  
15 in the credit and deferral programs has increased after the first  
16 year this act is in effect and the overall number of jobs for  
17 businesses participating in the credit and deferral programs  
18 performing research and development has increased from the effective  
19 date of this section, then the legislature intends to extend the  
20 expiration date of the tax preferences.

21 (5) To further assist the legislature in its review of the tax  
22 preferences in sections 3 through 7, chapter . . ., Laws of 2020  
23 (sections 3 through 7 of this act), the joint legislative audit and  
24 review committee must include an analysis on the effect of the tax  
25 credit and deferral programs on job and industry growth in Washington  
26 when receiving the tax preferences compared to when the preferences  
27 have not been available; the types of jobs created; growth in  
28 nonprofit and private sector research and development investment; the  
29 growth and retention of advanced spacecraft manufacturing businesses  
30 in the state; the movement of advanced spacecraft manufacturing  
31 around or into the state; the mergers and acquisitions of advanced  
32 spacecraft manufacturing businesses in the state; and other factors  
33 that the joint legislative audit and review committee selects.

34 (6) The joint legislative audit and review committee must  
35 complete an interim report by December 1, 2025. The interim report  
36 must provide an update on descriptive statistics collected, including  
37 the size of the companies claiming tax preferences under the credit  
38 and deferral programs.

39 (7) In order to obtain the data necessary to perform the review  
40 and analysis in subsections (4) and (5) of this section and to

1 complete the report in subsection (6) of this section, the joint  
2 legislative audit and review committee may refer to: (a) Employment  
3 data available from the employment security department; (b) return  
4 and tax information maintained by the department of revenue; and (c)  
5 any other data as the joint legislative audit and review committee  
6 deems useful.

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

9 (1) Beginning July 1, 2020, a credit against the tax imposed  
10 under this chapter is allowed for each person whose research and  
11 development spending during the year in which the credit is claimed  
12 exceeds 0.92 percent of the person's taxable amount during the same  
13 calendar year.

14 (2) To be eligible for the credit under this section for research  
15 and development conducted in advanced spacecraft manufacturing, a  
16 person must, as of July 1, 2020:

17 (a) Have an active tax registration with the department; and

18 (b) Be actively engaged in advanced spacecraft manufacturing.

19 (3) A person is not eligible for the tax credit under this  
20 section for research and development conducted in advanced spacecraft  
21 manufacturing if the person claims an aerospace tax credit under RCW  
22 82.04.4461 or a preferential tax rate under RCW 82.04.250(3),  
23 82.04.260(11), or 82.04.290(3), for a tax reporting period beginning  
24 on or after July 1, 2020.

25 (4) Any person claiming the tax credit in this section must be in  
26 compliance with all applicable federal statutes and regulations  
27 governing payloads.

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

29 (a) Determine the greater of the amount of (i) the person's  
30 qualified research and development expenditures or (ii) eighty  
31 percent of amounts received by the person, other than a public  
32 educational or research institution, in compensation for the conduct  
33 of qualified research and development actually performed directly by  
34 the person;

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

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

1 (6) Any person entitled to the credit provided in this section as  
2 a result of qualified research and development conducted under  
3 contract may assign all or any portion of the credit to the person  
4 contracting for the performance of the qualified research and  
5 development.

6 (7) The credit, including any credit assigned to a person under  
7 subsection (6) of this section, must be claimed against taxes due for  
8 the same calendar year in which the qualified research and  
9 development expenditures are incurred. The credit, including any  
10 credit assigned to a person under subsection (6) of this section, for  
11 each calendar year may not exceed the lesser of seven hundred fifty  
12 thousand dollars or the amount of tax otherwise due under this  
13 chapter for the calendar year.

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

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

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

21 (b) Information provided to the department under this subsection  
22 (8) does not need to be provided each time a credit is claimed under  
23 this section, but must be updated if there are any changes to the  
24 information provided.

25 (c) Any person issued an assessment or other notice of taxes due  
26 for failure to provide the information required under (a) of this  
27 subsection, will have that assessment or notice canceled, if the  
28 information required under (a) of this subsection is provided. Once  
29 this information is provided to the department, the person may claim  
30 the credit against taxes due under this section for the initial tax  
31 reporting period and subsequent tax reporting periods, if the  
32 information is updated pursuant to (b) of this subsection and the  
33 person is entitled to the credit.

34 (9) For any person claiming the credit, including any credit  
35 assigned to a person under subsection (6) of this section, whose  
36 research and development spending during the calendar year in which  
37 the credit is claimed fails to exceed 0.92 percent of the person's  
38 taxable amount during the same calendar year or who is otherwise  
39 ineligible, the department must declare the taxes against which the  
40 credit was claimed to be immediately due and payable. The department

1 must assess interest on the taxes against which the credit was  
2 claimed. However, the department may not assess penalties on taxes  
3 due under this subsection, unless the person who claimed the credit  
4 did not engage in any qualified research and development during the  
5 calendar year for which the tax credit was claimed. Interest must be  
6 assessed retroactively in accordance with chapter 82.32 RCW. Any  
7 credit assigned to a person under subsection (6) of this section that  
8 is disallowed as a result of this subsection may be claimed by the  
9 person who performed the qualified research and development, subject  
10 to the limitations set forth in subsection (7) of this section.

11 (10) A person claiming the credit provided in this section must  
12 file a complete annual tax performance report with the department  
13 under RCW 82.32.534.

14 (11) The definitions in this subsection apply throughout this  
15 section unless the context clearly requires otherwise.

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

18 (b) "Qualified research and development" has the same meaning as  
19 in RCW 82.63.010.

20 (c) "Qualified research and development expenditures" means  
21 operating expenses, including wages, compensation of a proprietor or  
22 a partner in a partnership as determined under rules adopted by the  
23 department, benefits, supplies, and computer expenses, directly  
24 incurred in qualified research and development by a person claiming  
25 the credit provided in this section. The term does not include  
26 amounts paid to a person, other than a public educational or research  
27 institution, to conduct qualified research and development. Nor does  
28 the term include capital costs and overhead, such as expenses for  
29 land, structures, or depreciable property.

30 (d) "Research and development spending" means qualified research  
31 and development expenditures plus eighty percent of amounts paid to a  
32 person, other than a public educational or research institution, to  
33 conduct qualified research and development.

34 (e) "Spacecraft" has the same meaning as provided in RCW  
35 82.63.010.

36 (f) "Taxable amount" means the taxable amount subject to the tax  
37 imposed in this chapter required to be reported on the person's  
38 combined excise tax returns for the calendar year for which the  
39 credit is claimed, less any taxable amount for which a credit is  
40 allowed under RCW 82.04.440.

1 (12) This section expires July 1, 2030.

2 **Sec. 4.** RCW 82.63.010 and 2015 3rd sp.s. c 5 s 303 are each  
3 amended to read as follows:

4 The definitions in this section apply throughout this chapter  
5 unless the context clearly requires otherwise.

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

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

14 ~~(3)) (a) "Advanced spacecraft manufacturing" means the~~  
15 ~~application of technologies, in the design and development of~~  
16 ~~spacecraft, by a manufacturer of spacecraft.~~

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

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

21 ~~(ii) "Spacecraft" means a device, and its components, designed~~  
22 ~~for suborbital space flight or to operate in, or place a payload in,~~  
23 ~~outer space, including satellites, but only when such device is~~  
24 ~~intended for sale or commercial or industrial use.~~

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

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

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

37 ~~(6) "Electronic device technology" means technologies involving~~  
38 ~~microelectronics; semiconductors; electronic equipment and~~  
39 ~~instrumentation; radio frequency, microwave, and millimeter~~

1 ~~electronics; optical and optic-electrical devices; and data and~~  
2 ~~digital communications and imaging devices.~~

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

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

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

12 (ii) The lessee that receives the economic benefit of the  
13 deferral agrees in writing with the department to complete the annual  
14 ~~((survey))~~ tax performance report required under RCW 82.63.020 ~~((+2))~~  
15 (6); and

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

21 ~~((8) "Environmental technology" means assessment and prevention~~  
22 ~~of threats or damage to human health or the environment,~~  
23 ~~environmental cleanup, and the development of alternative energy~~  
24 ~~sources.~~

25 ~~(9))~~ (4) (a) "Initiation of construction" means the date that a  
26 building permit is issued under the building code adopted under RCW  
27 19.27.031 for:

28 (i) Construction of the qualified building, if the underlying  
29 ownership of the building vests exclusively with the person receiving  
30 the economic benefit of the deferral;

31 (ii) Construction of the qualified building, if the economic  
32 benefits of the deferral are passed to a lessee as provided in  
33 subsection ~~((+7))~~ (3) of this section; or

34 (iii) Tenant improvements for a qualified building, if the  
35 economic benefits of the deferral are passed to a lessee as provided  
36 in subsection ~~((+7))~~ (3) of this section.

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



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

3 (~~(10)~~) (5) "Investment project" means an investment in  
4 qualified buildings or qualified machinery and equipment, including  
5 labor and services rendered in the planning, installation, and  
6 construction or improvement of the project.

7 (~~(11)~~) (6) "Meaningful construction" means an active  
8 construction site, where excavation of a building site, laying of a  
9 building foundation, or other tangible signs of construction are  
10 taking place and that clearly shows a progression in the construction  
11 process, at the location designated by the taxpayer in the  
12 application for deferral. Planning, permitting, or land clearing  
13 before excavation of the building site, without more, does not  
14 constitute meaningful construction.

15 (7) "Multiple qualified buildings" means qualified buildings  
16 leased to the same person when:

17 (a) Such structures (~~(a)~~) are located within a five-mile  
18 radius; and

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

21 (~~(12)~~) (8) (a) "Person" has the meaning given in RCW 82.04.030  
22 and includes state universities as defined in RCW 28B.10.016. Person  
23 also includes any affiliate of a person.

24 (b) For purposes of this subsection (8):

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

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

31 (~~(13)~~) (9) "Pilot scale manufacturing" means design,  
32 construction, and testing of preproduction prototypes and models in  
33 the fields of (~~biotechnology, advanced computing, electronic device~~  
34 ~~technology, advanced materials, and environmental technology~~)  
35 advanced spacecraft manufacturing other than for commercial sale. As  
36 used in this subsection, "commercial sale" excludes sales of  
37 prototypes or sales for market testing if the total gross receipts  
38 from such sales of the product, service, or process do not exceed one  
39 million dollars.

1       (~~(14)~~) (10) "Qualified buildings" means construction of new  
2 structures, and expansion or renovation of existing structures for  
3 the purpose of increasing floor space or production capacity used for  
4 pilot scale manufacturing or qualified research and development,  
5 including plant offices and other facilities that are an essential or  
6 an integral part of a structure used for pilot scale manufacturing or  
7 qualified research and development. Areas used for amusement and  
8 recreational activities, physical fitness activities, parking, the  
9 selling or furnishing of meals or other food and beverages, or  
10 similar commercial and noncommercial activities are not essential or  
11 integral to pilot scale manufacturing or qualified research and  
12 development. If a building or buildings are used partly for pilot  
13 scale manufacturing or qualified research and development, and partly  
14 for other purposes, the applicable tax deferral (~~(shall)~~) must be  
15 determined by apportionment of the costs of construction under rules  
16 adopted by the department. Such rules may include provisions for  
17 determining the amount of the deferral based on apportionment of  
18 costs of construction of an investment project consisting of a  
19 building or multiple buildings, where qualified research and  
20 development or pilot scale manufacturing activities are shifted  
21 within a building or from one building to another building.

22       (~~(15)~~) (11)(a) "Qualified machinery and equipment" means  
23 fixtures, equipment, and support facilities that are an integral and  
24 necessary part of a pilot scale manufacturing or qualified research  
25 and development operation. "Qualified machinery and equipment"  
26 includes: Computers; software; data processing equipment; laboratory  
27 equipment, instrumentation, and other devices used in a process of  
28 experimentation to develop a new or improved pilot model, plant  
29 process, product, formula, invention, or similar property;  
30 manufacturing components such as belts, pulleys, shafts, and moving  
31 parts; molds, tools, and dies; vats, tanks, and fermenters; operating  
32 structures; and all other equipment used to control, monitor, or  
33 operate the machinery. For purposes of this chapter, qualified  
34 machinery and equipment must be either new to the taxing jurisdiction  
35 of the state or new to the certificate holder, except that used  
36 machinery and equipment may be treated as qualified machinery and  
37 equipment if the certificate holder either brings the machinery and  
38 equipment into Washington or makes a retail purchase of the machinery  
39 and equipment in Washington or elsewhere.

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

6 ~~((16))~~ (12) "Qualified research and development" means research  
7 and development performed within this state in the field~~((s))~~ of  
8 ~~((advanced computing, advanced materials, biotechnology, electronic  
9 device technology, and environmental technology))~~ advanced spacecraft  
10 manufacturing.

11 ~~((17))~~ (13) "Recipient" means a person receiving a tax deferral  
12 under this chapter.

13 ~~((18))~~ (14) "Research and development" means activities  
14 performed to discover technological information, and technical and  
15 nonroutine activities concerned with translating technological  
16 information into new or improved products, processes, techniques,  
17 formulas, inventions, or software. The term includes exploration of a  
18 new use for an existing drug, device, or biological product if the  
19 new use requires separate licensing by the federal food and drug  
20 administration under chapter 21, C.F.R., as amended. The term does  
21 not include adaptation or duplication of existing products where the  
22 products are not substantially improved by application of the  
23 technology, nor does the term include surveys and studies, social  
24 science and humanities research, market research or testing, quality  
25 control, sale promotion and service, computer software developed for  
26 internal use, and research in areas such as improved style, taste,  
27 and seasonal design.

28 **Sec. 5.** RCW 82.63.020 and 2017 c 135 s 37 are each amended to  
29 read as follows:

30 (1) A person is not eligible for a tax deferral under this  
31 chapter for an investment project to be used for research and  
32 development performed within this state in advanced spacecraft  
33 manufacturing unless, as of July 1, 2020, the person:

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

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

36 (2) A person is not eligible for a tax deferral under this  
37 chapter for an investment project to be used for research and  
38 development or pilot scale manufacturing conducted in advanced  
39 spacecraft manufacturing if the person claims an aerospace tax credit

1 under RCW 82.04.4461 or preferential tax rate under RCW 82.04.250(3),  
2 82.04.260(11), or 82.04.290(3), for a tax reporting period beginning  
3 on or after July 1, 2020.

4 (3) Application for deferral of taxes under this chapter must be  
5 made to the department before initiation of construction of, or  
6 acquisition of equipment or machinery for the investment project. In  
7 the case of an investment project involving multiple qualified  
8 buildings, applications must be made for, and before the initiation  
9 of construction of, each qualified building. The application must be  
10 made to the department in a form and manner prescribed by the  
11 department. The application must contain information regarding the  
12 location of the investment project, the applicant's average  
13 employment in the state for the prior year, estimated or actual new  
14 employment related to the project, estimated or actual wages of  
15 employees related to the project, estimated or actual costs, time  
16 schedules for completion and operation, and other information  
17 required by the department. The department must rule on the  
18 application within sixty days. The department must deny any  
19 applications received after October 31, 2030.

20 (4) The department will approve applications that indicate  
21 meaningful construction of an eligible investment project will occur  
22 within five years of the date of application. Applications indicating  
23 that meaningful construction of an eligible investment project will  
24 not occur within two years of the date of the application may be  
25 required to include additional documentation about the investment  
26 project, such as project milestones and other information the  
27 department may require. Applications that do not indicate meaningful  
28 construction will occur within five years of the date of application  
29 must be denied.

30 (5)(a) Recipients may amend an approved deferral application to  
31 update the completion date, estimated expenses, the square footage of  
32 the investment project, or other information about the investment  
33 project. Amendments must be made in a form and manner prescribed by  
34 the department.

35 (b) Requests to amend a previously approved application for an  
36 investment project for which meaningful construction has not  
37 commenced within five years of the date of the initial application  
38 must be denied.

39 ~~((2))~~ (6) Each recipient of a deferral of taxes under this  
40 chapter must file a complete annual tax performance report with the

1 department under RCW 82.32.534. If the economic benefits of the  
2 deferral are passed to a lessee as provided in RCW 82.63.010(~~((7))~~)  
3 (3), the lessee must file a complete annual tax performance report,  
4 and the applicant is not required to file the annual tax performance  
5 report.

6 (~~((3))~~) (7) A recipient who must repay deferred taxes under RCW  
7 82.63.045 (~~((because the department has found that an investment  
8 project is used for purposes other than research and development  
9 performed within this state in the fields of advanced computing,  
10 advanced materials, biotechnology, electronic device technology, and  
11 environmental technology))~~) is no longer required to file annual tax  
12 performance reports under RCW 82.32.534 beginning on the date an  
13 investment project is used for nonqualifying purposes.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.63  
15 RCW to read as follows:

16 (1) (a) Except as otherwise provided in this section, the  
17 department must issue a sales and use tax deferral certificate for  
18 state and local sales and use taxes due under chapters 82.08, 82.12,  
19 82.14, and 81.104 RCW on each eligible investment project.

20 (b) The amount of tax imposed under chapters 82.08 and 82.12 RCW  
21 eligible for deferral under a certificate issued pursuant to this  
22 section is limited to seven hundred fifty thousand dollars per  
23 eligible investment project per person, except as further limited  
24 under subsection (3) of this section. Once a person reaches the seven  
25 hundred fifty thousand dollar limit in this subsection (1)(b), the  
26 person may no longer defer under this chapter any state or local  
27 sales or use taxes due on the eligible investment project.

28 (2) The department may not issue deferral certificates under this  
29 section before July 1, 2020.

30 (3) (a) The department may issue a person a deferral certificate  
31 under this section on more than one eligible investment project  
32 during a calendar year.

33 (b) A person who has been issued more than one deferral  
34 certificate may not defer more than seven hundred fifty thousand  
35 dollars in tax imposed under chapters 82.08 and 82.12 RCW during a  
36 calendar year. Once a person reaches the seven hundred fifty thousand  
37 dollar limit in this subsection (3)(b), the person may no longer  
38 defer under this chapter any state or local sales or use taxes due on  
39 the eligible investment projects during the calendar year.

1 (4) No certificate may be issued for an investment project that  
2 has already received a deferral under chapter 82.60 RCW, or this  
3 chapter, except that an investment project for qualified research and  
4 development that has already received a deferral may also receive an  
5 additional deferral certificate for adapting the investment project  
6 for use in pilot scale manufacturing.

7 (5) This section expires July 1, 2030.

8 **Sec. 7.** RCW 82.63.045 and 2017 c 135 s 38 are each amended to  
9 read as follows:

10 (1) Except as provided in subsection (2) of this section and RCW  
11 82.32.534, taxes deferred under this chapter need not be repaid.

12 (2) (a) If, on the basis of the survey under RCW 82.32.585 before  
13 January 1, 2018, or the annual tax performance report under RCW  
14 82.32.534 beginning January 1, 2018, or other information, the  
15 department finds that an investment project is used for purposes  
16 other than qualified research and development or pilot scale  
17 manufacturing at any time during the calendar year in which the  
18 investment project is certified by the department as having been  
19 operationally completed, or at any time during any of the seven  
20 succeeding calendar years, a portion of deferred taxes is immediately  
21 due according to the following schedule:

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

31 (b) If the department finds that meaningful construction of an  
32 investment project did not begin within five years of the date of the  
33 application or that an investment project is not operationally  
34 complete within ten years of the date of the initial application for  
35 deferral, the full amount of deferred taxes is immediately due.

1        (c) If the economic benefits of the deferral are passed to a  
2 lessee as provided in RCW 82.63.010(~~((7))~~) (3), the lessee is  
3 responsible for payment to the extent the lessee has received the  
4 economic benefit.

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

11        (b) This subsection does not relieve the lessors of its  
12 obligation to the lessee under RCW 82.63.010(~~((7))~~) (3) to pass the  
13 economic benefit of the deferral to the lessee.

14        (4) The department must assess interest at the rate provided for  
15 delinquent taxes, but not penalties, retroactively to the date of  
16 deferral. The debt for deferred taxes will not be extinguished by  
17 insolvency or other failure of the recipient. Transfer of ownership  
18 does not terminate the deferral, unless the successor does not agree  
19 in writing with the department to be bound by the eligibility  
20 requirements of this chapter. The deferral is transferred, subject to  
21 the successor meeting the eligibility requirements of this chapter,  
22 for the remaining periods of the deferral.

23        (5) Notwithstanding subsection (2) of this section or RCW  
24 82.32.534, deferred taxes on the following need not be repaid:

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

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

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