
THIRD SUBSTITUTE HOUSE BILL 1324

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Chapman, Maycumber, Springer, Chandler, Blake, Stokesbary, Steele, Reeves, Pettigrew, Dolan, Volz, Barkis, Eslick, Lekanoff, Tharinger, Hoff, Jenkins, Kilduff, and Leavitt)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to creating the Washington rural development and
2 opportunity zone act; amending RCW 82.04.260 and 82.04.261; adding a
3 new section to chapter 48.14 RCW; adding a new section to chapter
4 82.04 RCW; adding a new chapter to Title 43 RCW; creating new
5 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 while many
8 parts of the state are thriving economically, some rural and
9 distressed communities have struggled to keep pace. These communities
10 represent significant opportunity for economic growth and innovation.
11 However, businesses and entrepreneurs often find it difficult to
12 obtain the capital they need to expand and grow in these areas.
13 Therefore, it is the intent of the legislature to incentivize private
14 investments and job creation in rural and distressed communities
15 while ensuring no loss of revenue to the state.

16 NEW SECTION. **Sec. 2.** TAX PREFERENCE PERFORMANCE STATEMENT. (1)
17 This section is the tax preference performance statement for the tax
18 preferences created in sections 7 and 13, chapter . . ., Laws of 2019
19 (sections 7 and 13 of this act). This performance statement is only
20 intended to be used for subsequent evaluation of the tax preference.

1 (2) The legislature categorizes these tax preferences as ones
2 intended to create or retain jobs, as indicated in RCW
3 82.32.808(2)(c).

4 (3) It is the legislature's specific public policy objective to
5 create and retain jobs in rural development and opportunity zone
6 areas of Washington. It is the legislature's intent to provide a
7 vested tax credit that may be used to offset certain business and
8 occupation taxes under chapter 82.04 RCW, and insurance premium taxes
9 under chapter 48.14 RCW owed by Washington taxpayers, in order to
10 induce such taxpayers to invest in rural development and opportunity
11 zone funds whose management teams:

12 (a) Have experience investing in companies located in rural
13 development and opportunity zone areas;

14 (b) Have been vetted by the United States small business
15 administration or the United States department of agriculture; and

16 (c) Have submitted a business plan that:

17 (i) Projects the number of jobs that will be created or retained
18 as a result of such investment fund's investments in rural companies
19 and includes the assumptions used to determine the projection; and

20 (ii) Includes a revenue impact assessment that demonstrates that
21 the business plan will result in a positive economic impact on
22 Washington state over a ten-year period that exceeds the cumulative
23 amount of tax credits that would be issued to the investment fund's
24 investors, thereby:

25 (A) Enabling the capitalization of rural development and
26 opportunity zone funds;

27 (B) Incentivizing and requiring rural development and opportunity
28 zone funds to invest in companies located in rural areas of
29 Washington; and

30 (C) Enabling the creation or retention of jobs in rural
31 development and opportunity zone areas of Washington.

32 (4) If the joint legislative audit and review committee finds
33 that the aggregate number of jobs created or retained matches or
34 exceeds the aggregate number of jobs set forth in the business plans
35 of approved rural development and opportunity zone funds, in the six
36 years following enactment of these tax preferences, then the
37 legislature intends to continue the tax preferences created in
38 sections 7 and 13, chapter . . ., Laws of 2019 (sections 7 and 13 of
39 this act).

1 (5) In order to obtain the data necessary to perform the review
2 in subsection (4) of this section, the joint legislative audit and
3 review committee may refer to:

4 (a) The annual report that a taxpayer claiming the tax credit in
5 section 13 of this act must file with the department of revenue under
6 RCW 82.32.534; and

7 (b) The annual reports required under section 11 of this act.

8 NEW SECTION. **Sec. 3.** SHORT TITLE. This chapter may be known and
9 cited as the Washington rural development and opportunity zone act.

10 NEW SECTION. **Sec. 4.** DEFINITIONS. The definitions in this
11 section apply throughout this chapter unless the context clearly
12 requires otherwise.

13 (1) "Affiliate" means an entity that directly or indirectly,
14 through one or more intermediaries, controls, is controlled by, or is
15 under common control with another entity. For the purposes of this
16 chapter, "control" means the possession, directly or indirectly, of
17 more than fifty percent of the power to direct or cause the direction
18 of the management and policies of a person, whether through the
19 ownership of voting shares, by contract, or otherwise.

20 (2) "Average monthly employment" means the cumulative number of
21 full-time employees on the last day of each month of a calendar year
22 divided by twelve.

23 (3) "Closing date" means the date on which a rural development
24 and opportunity zone fund has collected all of the amounts specified
25 by section 5 of this act.

26 (4) "Credit-eligible capital contribution" means an investment of
27 cash by a person who, as of the closing date, is subject to (a)
28 business and occupation taxes under chapter 82.04 RCW and/or (b)
29 insurance premium taxes under chapter 48.14 RCW in a rural
30 development and opportunity zone fund that equals the amount
31 specified on a tax credit certificate issued by the department under
32 section 5 of this act. The investment must purchase an equity
33 interest in the rural development and opportunity zone fund or
34 purchase, at par value or premium, a debt instrument that has a
35 maturity date at least five years from the closing date and a
36 repayment schedule that is no faster than level principal
37 amortization over five years.

38 (5) "Department" means the department of commerce.

1 (6) "Full-time employee" means an employment position that
2 requires at least thirty-five hours of work each week.

3 (7) "Growth investment" means any capital or equity investment in
4 a targeted small business or any loan to a targeted small business
5 with a stated maturity at least one year after the date of issuance.

6 (8) "Investment authority" means the amount stated on the written
7 approval issued under section 5(8) of this act certifying the rural
8 development and opportunity zone fund. At least sixty percent of a
9 rural development and opportunity zone fund's investment authority
10 must be comprised of credit-eligible capital contributions.

11 (9) "Investor" also means "taxpayer."

12 (10) "Jobs created" means the number of full-time employees in
13 the state at the targeted small business at the time of the initial
14 growth investment subtracted from the monthly average of those
15 employment positions for that year.

16 (11) "Jobs retained" means the number of full-time employees in
17 the state at a targeted small business that existed before the
18 initial growth investment in the targeted small business, for which
19 the rural development and opportunity zone fund has obtained a
20 certification from an executive officer of the targeted small
21 businesses that such jobs would have been lost or moved out of state
22 if the growth investment had not been made.

23 (12) "NAICS code" means the North American industry
24 classification system code used by federal statistical agencies and
25 the state in classifying business establishments for the purpose of
26 collecting, analyzing, and publishing statistical data related to the
27 business economy.

28 (13) "Principal business operations" means a business located at
29 the place or places where at least sixty percent of its employees
30 work or where employees that are paid at least sixty percent of its
31 payroll work. An out-of-state business that has agreed to relocate
32 employees or an in-state business that has agreed to hire full-time
33 employees using the proceeds of a growth investment to establish its
34 principal business operations in a qualified area in the state is
35 deemed to have its principal business operations in this new location
36 provided it satisfies this definition within one hundred eighty days
37 after receiving the growth investment, unless the department agrees
38 to a later date.

39 (14) "Qualified area" means:

1 (a) A county with a population density of less than one hundred
2 persons per square mile or a county smaller than two hundred twenty-
3 five square miles as determined by the office of financial management
4 and published each year by the department for the period July 1st to
5 June 30th; or

6 (b) A qualified opportunity zone as defined by Title 26 U.S.C.
7 Sec. 1400Z-1 of the federal internal revenue code of 1986, as
8 amended.

9 (15) "Rural development and opportunity zone fund" or "fund"
10 means an entity certified by the department under section 5 of this
11 act.

12 (16) "Targeted small business" means a business that, at the time
13 of the initial investment in the company by a rural development and
14 opportunity zone fund:

15 (a) Has less than two hundred fifty employees and not more than
16 ten million dollars in net income for the preceding calendar year;

17 (b) Has its principal business operations in one or more
18 qualified areas in the state; and

19 (c) Is engaged in industries related to manufacturing, plant
20 sciences, services, distribution, warehousing, farming, forestry,
21 biotechnology, fisheries, biofuels, technology, or the marketing and
22 sale of technology, business that supplies inputs for agriculture and
23 food industry, agricultural primary production, feed industry,
24 branded or other food production, or if the business is not engaged
25 in such industries, the department makes a determination that the
26 investment will be highly beneficial to the economic growth of the
27 state.

28 NEW SECTION. **Sec. 5.** TAX CREDIT APPLICATION, APPROVAL, AND
29 ALLOCATIONS. (1) Beginning January 1, 2020, the department must
30 accept applications for approval as a rural development and
31 opportunity zone fund. The application must include all of the
32 following:

33 (a) The total investment authority sought by the applicant under
34 the business plan;

35 (b) A copy of the applicant's or an affiliate of the applicant's
36 license as a rural business investment company under Title 7 U.S.C.
37 Sec. 2009cc, as amended, as of January 1, 2019, or as a small
38 business investment company under Title 15 U.S.C. Sec. 681, as
39 amended, as of January 1, 2019;

1 (i) Evidence that, as of the date the application is submitted,
2 the applicant or affiliates of the applicant have invested at least
3 one hundred fifty million dollars in nonpublic companies located in
4 areas within or without the state of Washington that would be
5 qualified areas if in Washington; and

6 (ii) At least one principal in a rural investment company or
7 small business investment company is, or has been for at least four
8 years, an officer or employee of the applicant or an affiliate of the
9 applicant on the date of the submission.

10 (c) An estimate of the number of jobs created and jobs retained
11 in this state as a result of the applicant's growth investments and
12 the assumptions used to determine the estimate;

13 (d) A business plan that includes a revenue impact assessment
14 projecting state and local tax revenue to be generated by the
15 applicant's proposed growth investments prepared by a firm with
16 experience in providing economic analysis and revenue projection for
17 government entities using a dynamic economic forecasting model that
18 analyzes the applicant's business plan over the ten years following
19 the date the application is submitted to the department;

20 (e) A signed affidavit from each investor stating the amount of
21 credit-eligible capital contributions each taxpayer commits to make
22 and against which of the two tax types the investor plans to apply
23 the credit:

24 (i) Business and occupation taxes under chapter 82.04 RCW; or

25 (ii) Insurance premium taxes under chapter 48.14 RCW; and

26 (f) A nonrefundable application fee of five thousand dollars.

27 (2) The department must make an application determination within
28 thirty days of receipt in the order in which the applications are
29 received. The department must deem applications received on the same
30 day to have been received simultaneously.

31 (3) The department may not approve more than one hundred million
32 dollars in investment authority and not more than sixty million
33 dollars in credit-eligible capital contributions under this section.
34 If requests for investment authority exceed this limitation, the
35 department must proportionally reduce the investment authority and
36 the credit-eligible capital contributions for each approved
37 application as necessary to avoid exceeding the limit.

38 (4) The department may not approve more than thirty-five million
39 dollars in investment authority and not more than twenty-one million
40 dollars in credit-eligible capital contributions for an applicant

1 under this section. If fewer than three applicants have been approved
2 as a rural development and opportunity zone fund under this section
3 by November 1, 2020, a rural development and opportunity zone fund
4 may apply for additional investment authority and capital
5 contributions in excess of the limit under this subsection.

6 (5) The department must deny an application submitted under this
7 section if any of the following are true:

8 (a) The application is incomplete or the application fee is not
9 paid in full;

10 (b) The applicant does not satisfy all the criteria described in
11 subsection (1)(b) of this section;

12 (c) The revenue impact assessment submitted under subsection
13 (1)(d) of this section does not demonstrate that the applicant's
14 business plan will result in a positive economic impact on aggregate
15 state and local government revenue over a ten-year period that
16 exceeds the cumulative amount of tax credits that would be issued to
17 the applicant's investors under section 7 or 13 of this act if the
18 application were approved;

19 (d) The credit-eligible capital contributions described in
20 affidavits submitted under subsection (1)(e) of this section do not
21 equal at least sixty percent of the total amount of investment
22 authority sought under the applicant's business plan; or

23 (e) The department has already approved the maximum amount of
24 investment authority and credit-eligible capital contributions
25 allowed under subsections (3) and (4) of this section.

26 (6) If the department denies an application, the applicant may
27 provide additional information to the department to complete,
28 clarify, or cure defects in the application identified by the
29 department, except for failure to make the submission required by
30 subsection (1)(e) of this section, within fifteen days of the notice
31 of denial for reconsideration and determination. The department must
32 review and reconsider such applications within thirty days before any
33 pending application submitted after the original submission date of
34 the reconsidered application.

35 (7) The department may not deny a rural development and
36 opportunity zone fund application or reduce the requested investment
37 authority for reasons other than those described in subsections (3)
38 through (5) of this section.

39 (8) Upon approval of an application, the department must provide
40 a written approval to the applicant as a rural development and

1 opportunity zone fund specifying the amount of the applicant's
2 investment authority.

3 (9) After receiving the approval issued under subsection (8) of
4 this section, a rural development and opportunity zone fund must:

5 (a) Within sixty days:

6 (i) Collect the credit-eligible capital contributions from each
7 investor; and

8 (ii) Collect one or more investments of cash that, when added to
9 the contributions collected under (a)(i) of this subsection, equal
10 the rural development and opportunity zone fund's investment
11 authority. An amount equal to at least ten percent of the rural
12 development and opportunity zone fund's investment authority must be
13 equity investments by affiliates of the rural development and
14 opportunity zone fund, including employees, officers, and directors
15 of affiliates.

16 (b) Within sixty-five days, send to the department documentation
17 sufficient to prove that the amounts described in (a)(i) and (ii) of
18 this subsection have been collected.

19 (10) Upon receiving documentation from the rural development and
20 opportunity zone fund that it is fully funded, the department must
21 issue a tax credit certificate to each investor whose affidavit was
22 included in the application specifying the amount of the investor's
23 credit-eligible capital contribution. The department must provide a
24 copy of the tax credit certificates to the office of the insurance
25 commissioner for investors earning tax credits eligible for use
26 against insurance premium taxes, including the retaliatory provision,
27 imposed under chapter 48.14 RCW, and to the department of revenue for
28 investors earning tax credits eligible for use against business and
29 occupation taxes imposed under chapter 82.04 RCW. The tax credit
30 certificate must include:

31 (a) The credit-eligible capital contribution amount;

32 (b) The name of the rural development and opportunity zone fund;

33 (c) The unified business identifier number of the investor; and

34 (d) The closing date of the rural development and opportunity
35 zone fund.

36 (11) Tax credits may be transferred or allocated to an affiliate
37 of the taxpayer. Taxpayers must notify the department if they wish to
38 transfer or allocate a credit to an affiliate. The department will
39 verify the transfer is to an affiliate and then issue an amended tax
40 credit certificate to the taxpayer and a new tax credit certificate

1 to the affiliate. The department must provide the department of
2 revenue and the office of the insurance commissioner with a copy of
3 the amended tax credit certificate of the transferor and the new tax
4 credit certificate of the transferee.

5 (12) If the rural development and opportunity zone fund fails to
6 fully comply with subsection (9) of this section, the rural
7 development and opportunity zone fund's approval lapses and the
8 corresponding investment authority and credit-eligible capital
9 contributions under this subsection do not count toward the limits on
10 the program size prescribed by subsection (3) of this section. The
11 department must first award lapsed investment authority pro rata to
12 each rural development and opportunity zone fund that was awarded
13 less than the requested investment authority under subsection (3) of
14 this section, which a rural development and opportunity zone fund may
15 allocate to its investors in its discretion. Any remaining investment
16 authority may be awarded by the department to new applicants.

17 (13)(a) A rural development and opportunity zone fund shall, once
18 it has received approval from the department under subsection (8) of
19 this section, reimburse the department for the rural development and
20 opportunity zone fund's proportionate share of the costs that the
21 department incurs to administer the rural development and opportunity
22 zone program, from the point in time that the rural development and
23 opportunity zone fund receives approval from the department under
24 subsection (8) of this section to the point in time that the
25 department approves the exit of the rural development and opportunity
26 zone fund under section 8 of this act.

27 (b) The department shall quarterly calculate a rural development
28 and opportunity zone fund's proportionate share of the department's
29 costs to administer the rural development and opportunity zone
30 program according to the following formula: One-half of the
31 department's overall costs to administer the rural development and
32 opportunity zone program for the preceding quarter, multiplied by a
33 rural development and opportunity zone fund's investment authority as
34 specified by the department pursuant to section 5(4) of this act,
35 divided by the overall investment authority for rural development and
36 opportunity zone program as specified by the department pursuant to
37 section 5(3) of this act.

38 (c) On a quarterly basis, the department shall submit an invoice
39 to each rural development and opportunity zone fund that describes
40 the department's costs to administer the rural development and

1 opportunity zone program for the preceding quarter, as well as the
2 rural development and opportunity zone fund's proportionate share of
3 the department's costs to administer the rural development and
4 opportunity zone program for the preceding quarter.

5 (d) Within thirty days of receipt of the invoice described in (c)
6 of this subsection, a rural development and opportunity zone fund
7 shall remit to the department full payment for the rural development
8 and opportunity zone fund's proportionate share of the department's
9 costs to administer the rural development and opportunity zone
10 program.

11 (14) Application fees submitted to the department under
12 subsection (1)(f) of this section and administrative cost
13 reimbursements submitted to the department under subsection (13) of
14 this section must be deposited in the rural development and
15 opportunity zone account created in section 6 of this act.

16 NEW SECTION. **Sec. 6.** RURAL DEVELOPMENT AND OPPORTUNITY ZONE
17 ACCOUNT. The rural development and opportunity zone account is
18 created in the state treasury. All receipts from application fees and
19 administrative cost reimbursements submitted to the department under
20 section 5 of this act must be deposited into the account. Moneys in
21 the account may be spent only after appropriation. Expenditures from
22 the account may be used by the department only for administering this
23 chapter.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.14
25 RCW to read as follows:

26 INSURANCE PREMIUM TAX CREDIT ESTABLISHED. (1) A tax credit is
27 authorized against the tax, including the retaliatory provision,
28 otherwise due under this chapter for persons that made a credit-
29 eligible capital contribution to a rural development and opportunity
30 zone fund and were issued a tax credit certificate under section 5 of
31 this act.

32 (2) A taxpayer earns a credit on the closing date noted on the
33 taxpayer's tax credit certificate issued under section 5 of this act.
34 The credit is equal to the amount of the taxpayer's credit-eligible
35 capital contribution to the rural development and opportunity zone
36 fund as specified on the tax credit certificate.

37 (3) The taxpayer may claim up to one-third of the credit
38 authorized under this section for each of the calendar years that

1 includes the fourth through sixth anniversaries of the closing date
2 noted on the tax credit certificate, exclusive of amounts carried
3 forward from prior years.

4 (4) The amount claimed for a tax reporting period may not exceed
5 the amount of tax otherwise due under this chapter for that reporting
6 period. Unused credits may be carried forward until used, even if
7 claimed after the expiration date of this section. No refunds may be
8 granted for credits under this section.

9 (5) All persons claiming a credit under this section must file
10 electronically with the office of the insurance commissioner all
11 returns, other forms, or any other information as may be required by
12 the office of the insurance commissioner.

13 (6) A taxpayer claiming a credit under this section must submit a
14 copy of the tax credit certificate issued to the taxpayer under
15 section 5 of this act to the office of the insurance commissioner
16 when filing the first return in which the taxpayer will claim a
17 credit against taxes due under this chapter.

18 (7) The credit may not be transferred or allocated to any other
19 entity other than an affiliate subject to the insurance premium,
20 including retaliatory provisions, imposed under this chapter. The
21 department must provide the office of the insurance commissioner with
22 a copy of the amended tax credit certificate of the transferor and
23 the new tax credit certificate of the transferee. The office of the
24 insurance commissioner must disallow tax credits claimed by any
25 transferee other than an affiliate of the transferor.

26 (8) The department must notify the office of the insurance
27 commissioner if a tax credit certificate was revoked as provided in
28 section 8 of this act. Upon such notice, the office of the insurance
29 commissioner must:

30 (a) Provide written notice to the taxpayer or any affiliate to
31 which the credit was transferred that the credit was revoked by the
32 department;

33 (b) Include in the notice the amount of all credits previously
34 claimed and that such amount be paid in full within thirty days of
35 the date of the notice. If the taxpayer or the affiliate fails to pay
36 the amount in full by the due date in the notice or any extension
37 granted by the office of the insurance commissioner, the office of
38 the insurance commissioner must impose penalties and interest
39 consistent with RCW 48.14.060; and

1 (c) Deny any further use of the tax credit certificate by the
2 taxpayer or any affiliate to which the credit was transferred.

3 (9) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Affiliate" means an entity that directly or indirectly,
6 through one or more intermediaries, controls, is controlled by, or is
7 under common control with another entity. For the purposes of this
8 section, "control" means the possession, directly or indirectly, of
9 more than fifty percent of the power to direct or cause the direction
10 of the management and policies of a person, whether through the
11 ownership of voting shares, by contract, or otherwise.

12 (b) "Credit-eligible capital contribution" means an investment of
13 cash by a person subject to (a) business and occupation taxes under
14 chapter 82.04 RCW and/or (b) insurance premium taxes under chapter
15 48.14 RCW in a rural development and opportunity zone fund that
16 equals the amount specified on a tax credit certificate issued by the
17 department of commerce under section 5 of this act. The investment
18 must purchase an equity interest in the rural development and
19 opportunity zone fund or purchase, at par value or premium, a debt
20 instrument that has a maturity date at least five years from the
21 closing date and a repayment schedule that is no faster than level
22 principal amortization over five years.

23 (c) "Rural development and opportunity zone fund" means an entity
24 certified by the department of commerce under section 5 of this act.

25 (10) This section expires July 1, 2025.

26 NEW SECTION. **Sec. 8.** REVOCATION OF TAX CREDIT CERTIFICATES AND

27 EXIT. (1) The department must revoke a tax credit certificate issued
28 under section 5 of this act if any of the following occur with
29 respect to a rural development and opportunity zone fund before it
30 exits the program in accordance with subsection (4) of this section:

31 (a) The rural development and opportunity zone fund in which the
32 credit-eligible capital contribution was made does not invest
33 seventy-five percent of its investment authority in growth
34 investments in this state within two years of the closing date and
35 one hundred percent of its investment authority in growth investments
36 in this state within three years of the closing date;

37 (b) The rural development and opportunity zone fund, after
38 satisfying (a) of this subsection, fails to maintain growth
39 investments equal to one hundred percent of its investment authority

1 until the sixth anniversary of the closing date. For the purposes of
2 this subsection, an investment is "maintained" even if the investment
3 is sold or repaid so long as the rural development and opportunity
4 zone fund reinvests an amount equal to the capital returned or
5 recovered by the rural development and opportunity zone fund from the
6 original investment, exclusive of any profits realized, in other
7 growth investments in this state within twelve months of the receipt
8 of such capital. Amounts received periodically by a rural development
9 and opportunity zone fund must be treated as continually invested in
10 growth investments if the amounts are reinvested in one or more
11 growth investments by the end of the following calendar year;

12 (c) The rural development and opportunity zone fund, before
13 exiting the program in accordance with subsection (4) of this
14 section, makes a distribution or payment that results in the rural
15 development and opportunity zone fund having less than one hundred
16 percent of its investment authority invested in growth investments in
17 this state or available for investment in growth investments and held
18 in cash and other marketable securities;

19 (d) The rural development and opportunity zone fund invests more
20 than the greater of five million dollars or twenty percent of its
21 investment authority in the same targeted small business, including
22 amounts invested in affiliates of the targeted small business,
23 exclusive of repaid or redeemed growth investments that are
24 reinvested in the same small targeted small business; or

25 (e) The rural development and opportunity zone fund makes a
26 growth investment in a targeted small business that directly or
27 indirectly through an affiliate owns, has the right to acquire an
28 ownership interest, makes a loan to, or makes an investment in the
29 rural development and opportunity zone fund, an affiliate of the
30 rural development and opportunity zone fund, or an investor in the
31 rural development and opportunity zone fund. This subsection does not
32 apply to investments in publicly traded securities by a targeted
33 small business or an owner or affiliate of such business. For
34 purposes of this subsection, a rural development and opportunity zone
35 fund will not be considered an affiliate of a targeted small business
36 solely as a result of its growth investment.

37 (2) Before revoking one or more tax credit certificates under
38 this subsection, the department must notify the rural development and
39 opportunity zone fund of the reasons for the pending revocation. The
40 rural development and opportunity zone fund has ninety days from the

1 date the notice was dispatched to correct any violation outlined in
2 the notice to the satisfaction of the department and avoid revocation
3 of the tax credit certificate.

4 (3) If tax credit certificates are revoked under this section,
5 the associated investment authority and credit-eligible capital
6 contributions do not count toward the limit on total investment
7 authority and credit-eligible capital contributions described by
8 section 5(3) of this act. The department must first award reverted
9 authority pro rata to each rural development and opportunity zone
10 fund that was awarded less than the requested investment authority
11 under section 5(3) of this act. The department may award any
12 remaining investment authority to new applicants.

13 (4) On or after the sixth anniversary of the closing date, a
14 rural development and opportunity zone fund may apply to the
15 department to exit the program and no longer be subject to regulation
16 under this chapter. The department must respond to the application
17 within thirty days of receipt. In evaluating the application, the
18 fact that no tax credit certificates have been revoked and that the
19 rural development and opportunity zone fund has not received a notice
20 of revocation that has not been cured under subsection (2) of this
21 section is sufficient evidence to prove that the rural development
22 and opportunity zone fund is eligible for exit. The department may
23 not unreasonably deny an application submitted under this subsection.
24 If the application is denied, the notice must include the reasons for
25 the determination. The department must notify the office of the
26 insurance commissioner and the department of revenue when a rural
27 development and opportunity zone fund exits the program.

28 (5) The department may not revoke a tax credit certificate after
29 a rural development and opportunity zone fund exits the program.

30 NEW SECTION. **Sec. 9.** (1) Before approving the exit of a rural
31 development and opportunity zone fund from the program, the
32 department must evaluate the number of jobs created and jobs retained
33 by the rural development and opportunity zone fund, and the aggregate
34 state and local government revenues generated by growth investments
35 made pursuant to, or related to, the rural development and
36 opportunity zone fund's participation in the program, and determine
37 whether the rural development and opportunity zone fund must repay to
38 the state any portion of the credit as described in subsections (2)
39 and (3) of this section.

1 (2) For the number of jobs created and jobs retained by the rural
2 development and opportunity zone fund:

3 (a) If the number of jobs created and jobs retained as a result
4 of the rural development and opportunity zone fund's investments is
5 less than sixty percent of the amount filed as part of the rural
6 development and opportunity zone fund's application, the rural
7 development and opportunity zone fund must repay to the state sixty
8 percent of the amount of the tax credit certificates issued to
9 investors in the fund;

10 (b) If the number of jobs created and jobs retained as a result
11 of the rural development and opportunity zone fund's investments is
12 less than eighty percent but more than sixty percent of the amount
13 filed as part of the rural development and opportunity zone fund's
14 application, the rural development and opportunity zone fund must
15 repay to the state thirty percent of the amount of the tax credit
16 certificates issued to investors in the rural development and
17 opportunity zone fund; and

18 (c) In measuring jobs created and jobs retained as a result of
19 the rural development and opportunity zone fund's growth investments,
20 the department must prorate the number of jobs set forth in the rural
21 development and opportunity zone fund's business plan based upon the
22 amount of investment authority requested in the rural development and
23 opportunity zone fund's application.

24 (3) For the aggregate state and local government revenues
25 generated by growth investments made pursuant to, or related to, the
26 rural development and opportunity zone fund's participation in the
27 program, if the amount of aggregate state and local government
28 revenue generated by growth investments made pursuant to, or related
29 to, the rural development and opportunity zone fund's participation
30 in the program over the course of the rural development and
31 opportunity zone fund's participation in the program is less than the
32 cumulative amount of tax credits that were issued to the rural
33 development and opportunity zone fund's investors under section 7 or
34 13 of this act, the rural development and opportunity zone fund must
35 repay to the state one hundred percent of the difference between the
36 cumulative amount of tax credits that were issued to the rural
37 development and opportunity zone fund's investors under section 7 or
38 13 of this act and the actual aggregate state and local government
39 revenues generated by growth investments made pursuant to, or related
40 to, the rural development and opportunity zone fund's participation

1 in the program. For purposes of this subsection, "growth investments
2 made pursuant to, or related to, the rural development and
3 opportunity zone fund's participation in the program" means those
4 investments made by the rural development and opportunity zone fund
5 in targeted small businesses in qualified areas as part of the fund's
6 investment authority under the program, as well as any additional
7 investments the rural development and opportunity zone fund made in
8 those targeted small businesses in qualified areas using sources of
9 capital not included within the rural development and opportunity
10 zone fund's investment authority under the program.

11 (4) The department may contract with a firm with experience in
12 providing economic analysis and revenue projection for government
13 entities in order to evaluate the number of jobs created and jobs
14 retained by the rural development and opportunity zone fund, and the
15 aggregate state and local government revenues generated by growth
16 investments made pursuant to, or related to, the rural development
17 and opportunity zone fund's participation in the program. The
18 calculation of the aggregate state and local government revenues
19 generated by growth investments made pursuant to, or related to, the
20 rural development and opportunity zone fund's participation in the
21 program must be performed using a dynamic economic forecasting model.

22 (5) The department must provide written notice to the rural
23 development and opportunity zone fund of any repayment due under this
24 section. The rural development and opportunity zone fund must submit
25 payment to the department of revenue within thirty days of the date
26 of that notice. If the rural development and opportunity zone fund
27 fails to pay the full amount by the due date in the notice or any
28 extension granted by the department of revenue, the department of
29 revenue must impose penalties and interest as provided under chapter
30 82.32 RCW.

31 NEW SECTION. **Sec. 10.** REQUEST FOR DETERMINATION. A rural
32 development and opportunity zone fund, before making a growth
33 investment, may request from the department a written opinion as to
34 whether the business in which it proposed to invest is a targeted
35 small business. The department, not later than the fifteenth business
36 day after the date of receipt of the request, must notify the rural
37 development and opportunity zone fund of its determination. If the
38 department fails to notify the rural development and opportunity zone
39 fund by the fifteenth business day of its determination, the business

1 in which the rural development and opportunity zone fund proposes to
2 invest must be considered a targeted small business.

3 NEW SECTION. **Sec. 11.** REPORTING OBLIGATIONS. (1) Each rural
4 development and opportunity zone fund must submit a report to the
5 department on or before the fifth business day after each anniversary
6 of the closing date until the rural development and opportunity zone
7 fund has exited the program in accordance with section 8(4) of this
8 act. The report must provide documentation as to the rural
9 development and opportunity zone fund's growth investments and
10 include:

- 11 (a) A bank statement evidencing each growth investment;
- 12 (b) The name and location of principal operations;
- 13 (c) Industry NAICS code of each business receiving a growth
14 investment, including either the determination letter set forth in
15 section 10 of this act or evidence that the business qualified as a
16 targeted small business at the time the investment was made;
- 17 (d) The number of jobs created or retained as a result of the
18 rural development and opportunity zone fund's growth investments as
19 of the last day of the preceding calendar year and the assumptions
20 used to determine the number of employment positions;
- 21 (e) The average annual salary of the positions described in (c)
22 of this subsection; and
- 23 (f) Any other information required by the department.

24 (2) The department must consult with staff of the joint
25 legislative audit and review committee when developing the specific
26 format and questions included in the accountability report to ensure
27 it provides the information needed for performance evaluations under
28 chapter 43.136 RCW.

29 (3) By January 1, 2020, and annually thereafter, the department
30 must submit a report to the economic development committees of the
31 legislature that includes the following:

- 32 (a) The names of the applicants approved and the amount and type
33 of credit allocated to investors in the rural development and
34 opportunity zone fund;
- 35 (b) The criteria used to select the applicants approved under
36 section 5 of this act; and
- 37 (c) A summary of the information reported by each rural
38 development and opportunity zone fund under subsection (1) of this
39 section.

1 NEW SECTION. **Sec. 12.** The department must adopt rules necessary
2 to implement this chapter.

3 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.04
4 RCW to read as follows:

5 BUSINESS AND OCCUPATION TAX CREDIT ESTABLISHED. (1) A tax credit
6 is authorized against tax otherwise due under this chapter for
7 persons that made a credit-eligible capital contribution to a rural
8 development and opportunity zone fund and were issued a tax credit
9 certificate under section 5 of this act.

10 (2) A taxpayer earns a credit on the closing date noted on the
11 taxpayer's tax credit certificate issued under section 5 of this act.
12 The credit is equal to the amount of the taxpayer's credit-eligible
13 capital contribution to the rural development and opportunity zone
14 fund as specified on the tax credit certificate.

15 (3) The taxpayer may claim up to one-third of the credit
16 authorized under this section for each of the calendar years that
17 includes the fourth through sixth anniversaries of the closing date
18 noted on the tax credit certificate, exclusive of amounts carried
19 forward from prior years.

20 (4) The amount claimed for a tax reporting period may not exceed
21 the amount of tax otherwise due under this chapter for that reporting
22 period. Unused credits may be carried forward until used, even if
23 claimed after the expiration date of this section. No refunds may be
24 granted for credits under this section.

25 (5) All persons claiming a credit under this section must file
26 electronically with the department all returns, other forms, or any
27 other information as may be required by the department.

28 (6) A taxpayer claiming a credit under this section must submit a
29 copy of the tax credit certificate issued to the taxpayer under
30 section 5 of this act to the department when filing the first return
31 in which the taxpayer will claim a credit against taxes due under
32 this chapter.

33 (7) The credit may not be transferred or allocated to any other
34 entity other than an affiliate subject to the business and occupation
35 taxes imposed under this chapter. The department of commerce must
36 provide the department with a copy of the amended tax credit
37 certificate of the transferor and the new tax credit certificate of
38 the transferee. The department must disallow tax credits claimed by
39 any transferee other than an affiliate of the transferor.

1 (8) The department of commerce must notify the department if a
2 tax credit certificate was revoked as provided in section 8 of this
3 act. Upon such notice, the department of commerce must:

4 (a) Provide written notice to the taxpayer or any affiliate to
5 which the credit was transferred that the credit was revoked by the
6 department;

7 (b) Include in the notice the amount of all credits previously
8 claimed and that such amount be paid in full within thirty days of
9 the date of the notice. If the taxpayer or the affiliate fails to pay
10 the amount in full by the due date in the notice or any extension
11 granted by the department, the department must impose penalties and
12 interest as provided under chapter 82.32 RCW; and

13 (c) Deny any further use of the tax credit certificate by the
14 taxpayer or any affiliate to which the credit was transferred.

15 (9) A taxpayer claiming the tax credit against taxes due under
16 this chapter must file a complete annual report with the department
17 under RCW 82.32.534.

18 (10) The definitions in this subsection apply throughout this
19 section unless the context clearly requires otherwise.

20 (a) "Affiliate" means an entity that directly or indirectly,
21 through one or more intermediaries, controls, is controlled by, or is
22 under common control with another entity. For the purposes of this
23 section, "control" means the possession, directly or indirectly, of
24 more than fifty percent of the power to direct or cause the direction
25 of the management and policies of a person, whether through the
26 ownership of voting shares, by contract, or otherwise.

27 (b) "Credit-eligible capital contribution" means an investment of
28 cash by a person subject to (a) business and occupation taxes under
29 chapter 82.04 RCW and/or (b) insurance premium taxes under chapter
30 48.14 RCW in a rural development and opportunity zone fund that
31 equals the amount specified on a tax credit certificate issued by the
32 department of commerce under section 5 of this act. The investment
33 must purchase an equity interest in the rural development and
34 opportunity zone fund or purchase, at par value or premium, a debt
35 instrument that has a maturity date at least five years from the
36 closing date and a repayment schedule that is no faster than level
37 principal amortization over five years.

38 (c) "Rural development and opportunity zone fund" means an entity
39 certified by the department of commerce under section 5 of this act.

40 (11) This section expires July 1, 2025.

1 NEW SECTION. **Sec. 14.** (1) The legislature finds that the
2 Washington state forest practices habitat conservation plan was
3 approved in 2006 by the United States fish and wildlife service and
4 the national oceanic and atmospheric administration's marine
5 fisheries service. The legislature further finds that the
6 conservation plan protects habitat of aquatic species, supports
7 economically viable and healthy forests, and creates regulatory
8 stability for landowners. The legislature further finds that funding
9 for the adaptive management program and participation grants are
10 required to implement the forest and fish agreement and meet the
11 goals of the conservation plan. The legislature further finds that
12 the surcharge on the timber products business and occupation tax rate
13 was agreed to by the forest products industry, tribal leaders, and
14 stakeholders as a way to provide funding and safeguard the future of
15 the conservation plan. The legislature further finds that the
16 forestry industry assumed significant financial obligation with the
17 enactment of this conservation plan, in exchange for operational
18 certainty under the endangered species act. Therefore, the
19 legislature concludes that the timber products business and
20 occupation tax rate and the surcharge should continue until the
21 expiration date of the forest and fish agreement, in 2056.

22 (2) The legislature finds that Washington has one of the
23 strongest economies in the country. However, the local economies in
24 some rural counties continue to struggle. The legislature further
25 finds that the economic prosperity of our state must be shared by all
26 of our communities. The legislature further finds that forest product
27 sectors provide family-wage jobs in economically struggling areas of
28 the state. The legislature further finds that in 2017 the Washington
29 forest products industry, directly and indirectly, employed one
30 hundred one thousand workers, earning 5.5 billion dollars in wages.
31 Therefore, the legislature concludes that the forest products
32 industries support our local rural economies and contribute towards
33 the effort to lower unemployment rates across the state, especially
34 in rural areas.

35 **Sec. 15.** RCW 82.04.260 and 2018 c 164 s 3 are each amended to
36 read as follows:

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

1 (a) Wheat into flour, barley into pearl barley, soybeans into
2 soybean oil, canola into canola oil, canola meal, or canola by-
3 products, or sunflower seeds into sunflower oil; as to such persons
4 the amount of tax with respect to such business is equal to the value
5 of the flour, pearl barley, oil, canola meal, or canola by-product
6 manufactured, multiplied by the rate of 0.138 percent;

7 (b) Beginning July 1, 2025, seafood products that remain in a
8 raw, raw frozen, or raw salted state at the completion of the
9 manufacturing by that person; or selling manufactured seafood
10 products that remain in a raw, raw frozen, or raw salted state at the
11 completion of the manufacturing, to purchasers who transport in the
12 ordinary course of business the goods out of this state; as to such
13 persons the amount of tax with respect to such business is equal to
14 the value of the products manufactured or the gross proceeds derived
15 from such sales, multiplied by the rate of 0.138 percent. Sellers
16 must keep and preserve records for the period required by RCW
17 82.32.070 establishing that the goods were transported by the
18 purchaser in the ordinary course of business out of this state;

19 (c) (i) Except as provided otherwise in (c) (iii) of this
20 subsection, from July 1, 2025, until January 1, 2036, dairy products;
21 or selling dairy products that the person has manufactured to
22 purchasers who either transport in the ordinary course of business
23 the goods out of state or purchasers who use such dairy products as
24 an ingredient or component in the manufacturing of a dairy product;
25 as to such persons the tax imposed is equal to the value of the
26 products manufactured or the gross proceeds derived from such sales
27 multiplied by the rate of 0.138 percent. Sellers must keep and
28 preserve records for the period required by RCW 82.32.070
29 establishing that the goods were transported by the purchaser in the
30 ordinary course of business out of this state or sold to a
31 manufacturer for use as an ingredient or component in the
32 manufacturing of a dairy product.

33 (ii) For the purposes of this subsection (1) (c), "dairy products"
34 means:

35 (A) Products, not including any marijuana-infused product, that
36 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,
37 parts 131, 133, and 135, including by-products from the manufacturing
38 of the dairy products, such as whey and casein; and

1 (B) Products comprised of not less than seventy percent dairy
2 products that qualify under (c)(ii)(A) of this subsection, measured
3 by weight or volume.

4 (iii) The preferential tax rate provided to taxpayers under this
5 subsection (1)(c) does not apply to sales of dairy products on or
6 after July 1, 2023, where a dairy product is used by the purchaser as
7 an ingredient or component in the manufacturing in Washington of a
8 dairy product;

9 (d)(i) Beginning July 1, 2025, fruits or vegetables by canning,
10 preserving, freezing, processing, or dehydrating fresh fruits or
11 vegetables, or selling at wholesale fruits or vegetables manufactured
12 by the seller by canning, preserving, freezing, processing, or
13 dehydrating fresh fruits or vegetables and sold to purchasers who
14 transport in the ordinary course of business the goods out of this
15 state; as to such persons the amount of tax with respect to such
16 business is equal to the value of the products manufactured or the
17 gross proceeds derived from such sales multiplied by the rate of
18 0.138 percent. Sellers must keep and preserve records for the period
19 required by RCW 82.32.070 establishing that the goods were
20 transported by the purchaser in the ordinary course of business out
21 of this state.

22 (ii) For purposes of this subsection (1)(d), "fruits" and
23 "vegetables" do not include marijuana, useable marijuana, or
24 marijuana-infused products; and

25 (e) Wood biomass fuel; as to such persons the amount of tax with
26 respect to the business is equal to the value of wood biomass fuel
27 manufactured, multiplied by the rate of 0.138 percent. For the
28 purposes of this section, "wood biomass fuel" means a liquid or
29 gaseous fuel that is produced from lignocellulosic feedstocks,
30 including wood, forest, (~~(+or+)~~) or field residue(~~(+)~~) and dedicated
31 energy crops, and that does not include wood treated with chemical
32 preservations such as creosote, pentachlorophenol, or copper-chrome-
33 arsenic.

34 (2) Upon every person engaging within this state in the business
35 of splitting or processing dried peas; as to such persons the amount
36 of tax with respect to such business is equal to the value of the
37 peas split or processed, multiplied by the rate of 0.138 percent.

38 (3) Upon every nonprofit corporation and nonprofit association
39 engaging within this state in research and development, as to such
40 corporations and associations, the amount of tax with respect to such

1 activities is equal to the gross income derived from such activities
2 multiplied by the rate of 0.484 percent.

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

8 (5) Upon every person engaging within this state in the business
9 of acting as a travel agent or tour operator; as to such persons the
10 amount of the tax with respect to such activities is equal to the
11 gross income derived from such activities multiplied by the rate of
12 0.275 percent.

13 (6) Upon every person engaging within this state in business as
14 an international steamship agent, international customs house broker,
15 international freight forwarder, vessel and/or cargo charter broker
16 in foreign commerce, and/or international air cargo agent; as to such
17 persons the amount of the tax with respect to only international
18 activities is equal to the gross income derived from such activities
19 multiplied by the rate of 0.275 percent.

20 (7) Upon every person engaging within this state in the business
21 of stevedoring and associated activities pertinent to the movement of
22 goods and commodities in waterborne interstate or foreign commerce;
23 as to such persons the amount of tax with respect to such business is
24 equal to the gross proceeds derived from such activities multiplied
25 by the rate of 0.275 percent. Persons subject to taxation under this
26 subsection are exempt from payment of taxes imposed by chapter 82.16
27 RCW for that portion of their business subject to taxation under this
28 subsection. Stevedoring and associated activities pertinent to the
29 conduct of goods and commodities in waterborne interstate or foreign
30 commerce are defined as all activities of a labor, service or
31 transportation nature whereby cargo may be loaded or unloaded to or
32 from vessels or barges, passing over, onto or under a wharf, pier, or
33 similar structure; cargo may be moved to a warehouse or similar
34 holding or storage yard or area to await further movement in import
35 or export or may move to a consolidation freight station and be
36 stuffed, unstuffed, containerized, separated or otherwise segregated
37 or aggregated for delivery or loaded on any mode of transportation
38 for delivery to its consignee. Specific activities included in this
39 definition are: Wharfage, handling, loading, unloading, moving of
40 cargo to a convenient place of delivery to the consignee or a

1 convenient place for further movement to export mode; documentation
2 services in connection with the receipt, delivery, checking, care,
3 custody and control of cargo required in the transfer of cargo;
4 imported automobile handling prior to delivery to consignee; terminal
5 stevedoring and incidental vessel services, including but not limited
6 to plugging and unplugging refrigerator service to containers,
7 trailers, and other refrigerated cargo receptacles, and securing ship
8 hatch covers.

9 (8) (a) Upon every person engaging within this state in the
10 business of disposing of low-level waste, as defined in RCW
11 43.145.010; as to such persons the amount of the tax with respect to
12 such business is equal to the gross income of the business, excluding
13 any fees imposed under chapter 43.200 RCW, multiplied by the rate of
14 3.3 percent.

15 (b) If the gross income of the taxpayer is attributable to
16 activities both within and without this state, the gross income
17 attributable to this state must be determined in accordance with the
18 methods of apportionment required under RCW 82.04.460.

19 (9) Upon every person engaging within this state as an insurance
20 producer or title insurance agent licensed under chapter 48.17 RCW or
21 a surplus line broker licensed under chapter 48.15 RCW; as to such
22 persons, the amount of the tax with respect to such licensed
23 activities is equal to the gross income of such business multiplied
24 by the rate of 0.484 percent.

25 (10) Upon every person engaging within this state in business as
26 a hospital, as defined in chapter 70.41 RCW, that is operated as a
27 nonprofit corporation or by the state or any of its political
28 subdivisions, as to such persons, the amount of tax with respect to
29 such activities is equal to the gross income of the business
30 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
31 percent thereafter.

32 (11) (a) Beginning October 1, 2005, upon every person engaging
33 within this state in the business of manufacturing commercial
34 airplanes, or components of such airplanes, or making sales, at
35 retail or wholesale, of commercial airplanes or components of such
36 airplanes, manufactured by the seller, as to such persons the amount
37 of tax with respect to such business is, in the case of
38 manufacturers, equal to the value of the product manufactured and the
39 gross proceeds of sales of the product manufactured, or in the case

1 of processors for hire, equal to the gross income of the business,
2 multiplied by the rate of:

3 (i) 0.4235 percent from October 1, 2005, through June 30, 2007;
4 and

5 (ii) 0.2904 percent beginning July 1, 2007.

6 (b) Beginning July 1, 2008, upon every person who is not eligible
7 to report under the provisions of (a) of this subsection (11) and is
8 engaging within this state in the business of manufacturing tooling
9 specifically designed for use in manufacturing commercial airplanes
10 or components of such airplanes, or making sales, at retail or
11 wholesale, of such tooling manufactured by the seller, as to such
12 persons the amount of tax with respect to such business is, in the
13 case of manufacturers, equal to the value of the product manufactured
14 and the gross proceeds of sales of the product manufactured, or in
15 the case of processors for hire, be equal to the gross income of the
16 business, multiplied by the rate of 0.2904 percent.

17 (c) For the purposes of this subsection (11), "commercial
18 airplane" and "component" have the same meanings as provided in RCW
19 82.32.550.

20 (d) In addition to all other requirements under this title, a
21 person reporting under the tax rate provided in this subsection (11)
22 must file a complete annual tax performance report with the
23 department under RCW 82.32.534.

24 (e)(i) Except as provided in (e)(ii) of this subsection (11),
25 this subsection (11) does not apply on and after July 1, 2040.

26 (ii) With respect to the manufacturing of commercial airplanes or
27 making sales, at retail or wholesale, of commercial airplanes, this
28 subsection (11) does not apply on and after July 1st of the year in
29 which the department makes a determination that any final assembly or
30 wing assembly of any version or variant of a commercial airplane that
31 is the basis of a siting of a significant commercial airplane
32 manufacturing program in the state under RCW 82.32.850 has been sited
33 outside the state of Washington. This subsection (11)(e)(ii) only
34 applies to the manufacturing or sale of commercial airplanes that are
35 the basis of a siting of a significant commercial airplane
36 manufacturing program in the state under RCW 82.32.850.

37 (12)(a) Until July 1, (~~2024~~) 2036, upon every person engaging
38 within this state in the business of extracting timber or extracting
39 for hire timber; as to such persons the amount of tax with respect to
40 the business is, in the case of extractors, equal to the value of

1 products, including by-products, extracted, or in the case of
2 extractors for hire, equal to the gross income of the business,
3 multiplied by the rate of 0.4235 percent from July 1, 2006, through
4 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
5 ((2024)) 2036.

6 (b) Until July 1, ((2024)) 2036, upon every person engaging
7 within this state in the business of manufacturing or processing for
8 hire: (i) Timber into timber products or wood products; or (ii)
9 timber products into other timber products or wood products; as to
10 such persons the amount of the tax with respect to the business is,
11 in the case of manufacturers, equal to the value of products,
12 including by-products, manufactured, or in the case of processors for
13 hire, equal to the gross income of the business, multiplied by the
14 rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and
15 0.2904 percent from July 1, 2007, through June 30, ((2024)) 2036.

16 (c) Until July 1, ((2024)) 2036, upon every person engaging
17 within this state in the business of selling at wholesale: (i) Timber
18 extracted by that person; (ii) timber products manufactured by that
19 person from timber or other timber products; or (iii) wood products
20 manufactured by that person from timber or timber products; as to
21 such persons the amount of the tax with respect to the business is
22 equal to the gross proceeds of sales of the timber, timber products,
23 or wood products multiplied by the rate of 0.4235 percent from July
24 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007,
25 through June 30, ((2024)) 2036.

26 (d) Until July 1, ((2024)) 2036, upon every person engaging
27 within this state in the business of selling standing timber; as to
28 such persons the amount of the tax with respect to the business is
29 equal to the gross income of the business multiplied by the rate of
30 0.2904 percent. For purposes of this subsection (12)(d), "selling
31 standing timber" means the sale of timber apart from the land, where
32 the buyer is required to sever the timber within thirty months from
33 the date of the original contract, regardless of the method of
34 payment for the timber and whether title to the timber transfers
35 before, upon, or after severance.

36 (e) For purposes of this subsection, the following definitions
37 apply:

38 (i) "Biocomposite surface products" means surface material
39 products containing, by weight or volume, more than fifty percent

1 recycled paper and that also use nonpetroleum-based phenolic resin as
2 a bonding agent.

3 (ii) "Paper and paper products" means products made of interwoven
4 cellulosic fibers held together largely by hydrogen bonding. "Paper
5 and paper products" includes newsprint; office, printing, fine, and
6 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
7 kraft bag, construction, and other kraft industrial papers;
8 paperboard, liquid packaging containers, containerboard, corrugated,
9 and solid-fiber containers including linerboard and corrugated
10 medium; and related types of cellulosic products containing
11 primarily, by weight or volume, cellulosic materials. "Paper and
12 paper products" does not include books, newspapers, magazines,
13 periodicals, and other printed publications, advertising materials,
14 calendars, and similar types of printed materials.

15 (iii) "Recycled paper" means paper and paper products having
16 fifty percent or more of their fiber content that comes from
17 postconsumer waste. For purposes of this subsection (12)(e)(iii),
18 "postconsumer waste" means a finished material that would normally be
19 disposed of as solid waste, having completed its life cycle as a
20 consumer item.

21 (iv) "Timber" means forest trees, standing or down, on privately
22 or publicly owned land. "Timber" does not include Christmas trees
23 that are cultivated by agricultural methods or short-rotation
24 hardwoods as defined in RCW 84.33.035.

25 (v) "Timber products" means:

26 (A) Logs, wood chips, sawdust, wood waste, and similar products
27 obtained wholly from the processing of timber, short-rotation
28 hardwoods as defined in RCW 84.33.035, or both;

29 (B) Pulp, including market pulp and pulp derived from recovered
30 paper or paper products; and

31 (C) Recycled paper, but only when used in the manufacture of
32 biocomposite surface products.

33 (vi) "Wood products" means paper and paper products; dimensional
34 lumber; engineered wood products such as particleboard, oriented
35 strand board, medium density fiberboard, and plywood; wood doors;
36 wood windows; and biocomposite surface products.

37 (f) Except for small harvesters as defined in RCW 84.33.035, a
38 person reporting under the tax rate provided in this subsection (12)
39 must file a complete annual tax performance report with the
40 department under RCW 82.32.534.

1 (13) Upon every person engaging within this state in inspecting,
2 testing, labeling, and storing canned salmon owned by another person,
3 as to such persons, the amount of tax with respect to such activities
4 is equal to the gross income derived from such activities multiplied
5 by the rate of 0.484 percent.

6 (14)(a) Upon every person engaging within this state in the
7 business of printing a newspaper, publishing a newspaper, or both,
8 the amount of tax on such business is equal to the gross income of
9 the business multiplied by the rate of 0.35 percent until July 1,
10 2024, and 0.484 percent thereafter.

11 (b) A person reporting under the tax rate provided in this
12 subsection (14) must file a complete annual tax performance report
13 with the department under RCW 82.32.534.

14 **Sec. 16.** RCW 82.04.261 and 2017 c 323 s 501 are each amended to
15 read as follows:

16 (1) In addition to the taxes imposed under RCW 82.04.260(12), a
17 surcharge is imposed on those persons who are subject to any of the
18 taxes imposed under RCW 82.04.260(12). Except as otherwise provided
19 in this section, the surcharge is equal to 0.052 percent. The
20 surcharge is added to the rates provided in RCW 82.04.260(12) (a),
21 (b), (c), and (d). ~~((The surcharge and this section expire July 1,
22 2024.))~~

23 (2) All receipts from the surcharge imposed under this section
24 must be deposited into the forest and fish support account created in
25 RCW 76.09.405.

26 (3)(a) The surcharge imposed under this section is suspended if:

27 (i) Receipts from the surcharge total at least eight million
28 dollars during any fiscal biennium; or

29 (ii) The office of financial management certifies to the
30 department that the federal government has appropriated at least two
31 million dollars for participation in forest and fish report-related
32 activities by federally recognized Indian tribes located within the
33 geographical boundaries of the state of Washington for any federal
34 fiscal year.

35 (b)(i) The suspension of the surcharge under (a)(i) of this
36 subsection (3) takes effect on the first day of the calendar month
37 that is at least thirty days after the end of the month during which
38 the department determines that receipts from the surcharge total at

1 least eight million dollars during the fiscal biennium. The surcharge
2 is imposed again at the beginning of the following fiscal biennium.

3 (ii) The suspension of the surcharge under (a)(ii) of this
4 subsection (3) takes effect on the later of the first day of October
5 of any federal fiscal year for which the federal government
6 appropriates at least two million dollars for participation in forest
7 and fish report-related activities by federally recognized Indian
8 tribes located within the geographical boundaries of the state of
9 Washington, or the first day of a calendar month that is at least
10 thirty days following the date that the office of financial
11 management makes a certification to the department under subsection
12 (5) of this section. The surcharge is imposed again on the first day
13 of the following July.

14 (4)(a) If, by October 1st of any federal fiscal year, the office
15 of financial management certifies to the department that the federal
16 government has appropriated funds for participation in forest and
17 fish report-related activities by federally recognized Indian tribes
18 located within the geographical boundaries of the state of Washington
19 but the amount of the appropriation is less than two million dollars,
20 the department must adjust the surcharge in accordance with this
21 subsection.

22 (b) The department must adjust the surcharge by an amount that
23 the department estimates will cause the amount of funds deposited
24 into the forest and fish support account for the state fiscal year
25 that begins July 1st and that includes the beginning of the federal
26 fiscal year for which the federal appropriation is made, to be
27 reduced by twice the amount of the federal appropriation for
28 participation in forest and fish report-related activities by
29 federally recognized Indian tribes located within the geographical
30 boundaries of the state of Washington.

31 (c) Any adjustment in the surcharge takes effect at the beginning
32 of a calendar month that is at least thirty days after the date that
33 the office of financial management makes the certification under
34 subsection (5) of this section.

35 (d) The surcharge is imposed again at the rate provided in
36 subsection (1) of this section on the first day of the following
37 state fiscal year unless the surcharge is suspended under subsection
38 (3) of this section or adjusted for that fiscal year under this
39 subsection.

1 (e) Adjustments of the amount of the surcharge by the department
2 are final and may not be used to challenge the validity of the
3 surcharge imposed under this section.

4 (f) The department must provide timely notice to affected
5 taxpayers of the suspension of the surcharge or an adjustment of the
6 surcharge.

7 (5) The office of financial management must make the
8 certification to the department as to the status of federal
9 appropriations for tribal participation in forest and fish report-
10 related activities.

11 (6) This section expires July 1, 2036.

12 NEW SECTION. Sec. 17. The provisions of RCW 82.32.808 do not
13 apply to sections 15 and 16 of this act.

14 NEW SECTION. Sec. 18. Sections 1 through 6, 8 through 12, and
15 19 of this act constitute a new chapter in Title 43 RCW.

16 NEW SECTION. Sec. 19. This chapter expires July 1, 2025.

17 NEW SECTION. Sec. 20. If specific funding for the purposes of
18 this act, referencing this act by bill or chapter number, is not
19 provided by June 30, 2019, in the omnibus appropriations act, this
20 act is null and void.

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