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

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

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

30 (C) Enabling the creation or retention of jobs in rural
31 development and distressed 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 distressed opportunity zone funds,
36 in the six years following enactment of these tax preferences, then
37 the 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 distressed opportunity
10 zone act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (14) "Qualified area" means:

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

7 (b) A qualified opportunity zone as defined by Title 26 U.S.C.
8 Sec. 1400Z-1 of the federal internal revenue code of 1986, as
9 amended, located in a distressed area as defined in RCW 43.169.020..

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

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

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

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

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

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

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

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

1 business investment company under Title 15 U.S.C. Sec. 681, as
2 amended, as of January 1, 2019;

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

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

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

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

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

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

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

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

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

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

1 (4) The department may not approve more than thirty-five million
2 dollars in investment authority and not more than twenty-one million
3 dollars in credit-eligible capital contributions for an applicant
4 under this section. If fewer than three applicants have been approved
5 as a rural development and distressed opportunity zone fund under
6 this section by November 1, 2020, a rural development and distressed
7 opportunity zone fund may apply for additional investment authority
8 and capital contributions in excess of the limit under this
9 subsection.

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

12 (a) The application is incomplete or the application fee is not
13 paid in full;

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

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

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

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

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

39 (7) The department may not deny a rural development and
40 distressed opportunity zone fund application or reduce the requested

1 investment authority for reasons other than those described in
2 subsections (3) through (5) of this section.

3 (8) Upon approval of an application, the department must provide
4 a written approval to the applicant as a rural development and
5 distressed opportunity zone fund specifying the amount of the
6 applicant's investment authority.

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

10 (a) Within sixty days:

11 (i) Collect the credit-eligible capital contributions from each
12 investor; and

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

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

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

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

37 (b) The name of the rural development and distressed opportunity
38 zone fund;

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

1 (d) The closing date of the rural development and distressed
2 opportunity zone fund.

3 (11) Tax credits may be transferred or allocated to an affiliate
4 of the taxpayer. Taxpayers must notify the department if they wish to
5 transfer or allocate a credit to an affiliate. The department will
6 verify the transfer is to an affiliate and then issue an amended tax
7 credit certificate to the taxpayer and a new tax credit certificate
8 to the affiliate. The department must provide the department of
9 revenue and the office of the insurance commissioner with a copy of
10 the amended tax credit certificate of the transferor and the new tax
11 credit certificate of the transferee.

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

25 (13)(a) A rural development and distressed opportunity zone fund
26 shall, once it has received approval from the department under
27 subsection (8) of this section, reimburse the department for the
28 rural development and distressed opportunity zone fund's
29 proportionate share of the costs that the department incurs to
30 administer the rural development and distressed opportunity zone
31 program, from the point in time that the rural development and
32 distressed opportunity zone fund receives approval from the
33 department under subsection (8) of this section to the point in time
34 that the department approves the exit of the rural development and
35 distressed opportunity zone fund under section 8 of this act.

36 (b) The department shall quarterly calculate a rural development
37 and distressed opportunity zone fund's proportionate share of the
38 department's costs to administer the rural development and distressed
39 opportunity zone program according to the following formula: One-half
40 of the department's overall costs to administer the rural development

1 and distressed opportunity zone program for the preceding quarter,
2 multiplied by a rural development and distressed opportunity zone
3 fund's investment authority as specified by the department pursuant
4 to section 5(4) of this act, divided by the overall investment
5 authority for rural development and distressed opportunity zone
6 program as specified by the department pursuant to section 5(3) of
7 this act.

8 (c) On a quarterly basis, the department shall submit an invoice
9 to each rural development and distressed opportunity zone fund that
10 describes the department's costs to administer the rural development
11 and distressed opportunity zone program for the preceding quarter, as
12 well as the rural development and distressed opportunity zone fund's
13 proportionate share of the department's costs to administer the rural
14 development and distressed opportunity zone program for the preceding
15 quarter.

16 (d) Within thirty days of receipt of the invoice described in (c)
17 of this subsection, a rural development and distressed opportunity
18 zone fund shall remit to the department full payment for the rural
19 development and distressed opportunity zone fund's proportionate
20 share of the department's costs to administer the rural development
21 and distressed opportunity zone program.

22 (14) Application fees submitted to the department under
23 subsection (1)(f) of this section and administrative cost
24 reimbursements submitted to the department under subsection (13) of
25 this section must be deposited in the rural development and
26 distressed opportunity zone account created in section 6 of this act.

27 NEW SECTION. **Sec. 6.** RURAL DEVELOPMENT AND DISTRESSED
28 OPPORTUNITY ZONE ACCOUNT. The rural development and distressed
29 opportunity zone account is created in the state treasury. All
30 receipts from application fees and administrative cost reimbursements
31 submitted to the department under section 5 of this act must be
32 deposited into the account. Moneys in the account may be spent only
33 after appropriation. Expenditures from the account may be used by the
34 department only for administering this chapter.

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

37 INSURANCE PREMIUM TAX CREDIT ESTABLISHED. (1) A tax credit is
38 authorized against the tax, including the retaliatory provision,

1 otherwise due under this chapter for persons that made a credit-
2 eligible capital contribution to a rural development and distressed
3 opportunity zone fund and were issued a tax credit certificate under
4 section 5 of this act.

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

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

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

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

24 (6) A taxpayer claiming a credit under this section must submit a
25 copy of the tax credit certificate issued to the taxpayer under
26 section 5 of this act to the office of the insurance commissioner
27 when filing the first return in which the taxpayer will claim a
28 credit against taxes due under this chapter.

29 (7) The credit may not be transferred or allocated to any other
30 entity other than an affiliate subject to the insurance premium,
31 including retaliatory provisions, imposed under this chapter. The
32 department must provide the office of the insurance commissioner with
33 a copy of the amended tax credit certificate of the transferor and
34 the new tax credit certificate of the transferee. The office of the
35 insurance commissioner must disallow tax credits claimed by any
36 transferee other than an affiliate of the transferor.

37 (8) The department must notify the office of the insurance
38 commissioner if a tax credit certificate was revoked as provided in
39 section 8 of this act. Upon such notice, the office of the insurance
40 commissioner must:

1 (a) Provide written notice to the taxpayer or any affiliate to
2 which the credit was transferred that the credit was revoked by the
3 department;

4 (b) Include in the notice the amount of all credits previously
5 claimed and that such amount be paid in full within thirty days of
6 the date of the notice. If the taxpayer or the affiliate fails to pay
7 the amount in full by the due date in the notice or any extension
8 granted by the office of the insurance commissioner, the office of
9 the insurance commissioner must impose penalties and interest
10 consistent with RCW 48.14.060; and

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

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

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

22 (b) "Credit-eligible capital contribution" means an investment of
23 cash by a person subject to (a) business and occupation taxes under
24 chapter 82.04 RCW and/or (b) insurance premium taxes under chapter
25 48.14 RCW in a rural development and distressed opportunity zone fund
26 that equals the amount specified on a tax credit certificate issued
27 by the department of commerce under section 5 of this act. The
28 investment must purchase an equity interest in the rural development
29 and distressed opportunity zone fund or purchase, at par value or
30 premium, a debt instrument that has a maturity date at least five
31 years from the closing date and a repayment schedule that is no
32 faster than level principal amortization over five years.

33 (c) "Rural development and distressed opportunity zone fund"
34 means an entity certified by the department of commerce under section
35 5 of this act.

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

37 NEW SECTION. **Sec. 8.** REVOCATION OF TAX CREDIT CERTIFICATES AND
38 EXIT. (1) The department must revoke a tax credit certificate issued
39 under section 5 of this act if any of the following occur with

1 respect to a rural development and distressed opportunity zone fund
2 before it exits the program in accordance with subsection (4) of this
3 section:

4 (a) The rural development and distressed opportunity zone fund in
5 which the credit-eligible capital contribution was made does not
6 invest seventy-five percent of its investment authority in growth
7 investments in this state within two years of the closing date and
8 one hundred percent of its investment authority in growth investments
9 in this state within three years of the closing date;

10 (b) The rural development and distressed opportunity zone fund,
11 after satisfying (a) of this subsection, fails to maintain growth
12 investments equal to one hundred percent of its investment authority
13 until the sixth anniversary of the closing date. For the purposes of
14 this subsection, an investment is "maintained" even if the investment
15 is sold or repaid so long as the rural development and distressed
16 opportunity zone fund reinvests an amount equal to the capital
17 returned or recovered by the rural development and distressed
18 opportunity zone fund from the original investment, exclusive of any
19 profits realized, in other growth investments in this state within
20 twelve months of the receipt of such capital. Amounts received
21 periodically by a rural development and distressed opportunity zone
22 fund must be treated as continually invested in growth investments if
23 the amounts are reinvested in one or more growth investments by the
24 end of the following calendar year;

25 (c) The rural development and distressed opportunity zone fund,
26 before exiting the program in accordance with subsection (4) of this
27 section, makes a distribution or payment that results in the rural
28 development and distressed opportunity zone fund having less than one
29 hundred percent of its investment authority invested in growth
30 investments in this state or available for investment in growth
31 investments and held in cash and other marketable securities;

32 (d) The rural development and distressed opportunity zone fund
33 invests more than the greater of five million dollars or twenty
34 percent of its investment authority in the same targeted small
35 business, including amounts invested in affiliates of the targeted
36 small business, exclusive of repaid or redeemed growth investments
37 that are reinvested in the same small targeted small business; or

38 (e) The rural development and distressed opportunity zone fund
39 makes a growth investment in a targeted small business that directly
40 or indirectly through an affiliate owns, has the right to acquire an

1 ownership interest, makes a loan to, or makes an investment in the
2 rural development and distressed opportunity zone fund, an affiliate
3 of the rural development and distressed opportunity zone fund, or an
4 investor in the rural development and distressed opportunity zone
5 fund. This subsection does not apply to investments in publicly
6 traded securities by a targeted small business or an owner or
7 affiliate of such business. For purposes of this subsection, a rural
8 development and distressed opportunity zone fund will not be
9 considered an affiliate of a targeted small business solely as a
10 result of its growth investment.

11 (2) Before revoking one or more tax credit certificates under
12 this subsection, the department must notify the rural development and
13 distressed opportunity zone fund of the reasons for the pending
14 revocation. The rural development and distressed opportunity zone
15 fund has ninety days from the date the notice was dispatched to
16 correct any violation outlined in the notice to the satisfaction of
17 the department and avoid revocation of the tax credit certificate.

18 (3) If tax credit certificates are revoked under this section,
19 the associated investment authority and credit-eligible capital
20 contributions do not count toward the limit on total investment
21 authority and credit-eligible capital contributions described by
22 section 5(3) of this act. The department must first award reverted
23 authority pro rata to each rural development and distressed
24 opportunity zone fund that was awarded less than the requested
25 investment authority under section 5(3) of this act. The department
26 may award any remaining investment authority to new applicants.

27 (4) On or after the sixth anniversary of the closing date, a
28 rural development and distressed opportunity zone fund may apply to
29 the department to exit the program and no longer be subject to
30 regulation under this chapter. The department must respond to the
31 application within thirty days of receipt. In evaluating the
32 application, the fact that no tax credit certificates have been
33 revoked and that the rural development and distressed opportunity
34 zone fund has not received a notice of revocation that has not been
35 cured under subsection (2) of this section is sufficient evidence to
36 prove that the rural development and distressed opportunity zone fund
37 is eligible for exit. The department may not unreasonably deny an
38 application submitted under this subsection. If the application is
39 denied, the notice must include the reasons for the determination.
40 The department must notify the office of the insurance commissioner

1 and the department of revenue when a rural development and distressed
2 opportunity zone fund exits the program.

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

6 NEW SECTION. **Sec. 9.** (1) Before approving the exit of a rural
7 development and distressed opportunity zone fund from the program,
8 the department must evaluate the number of jobs created and jobs
9 retained by the rural development and distressed opportunity zone
10 fund, and the aggregate state and local government revenues generated
11 by growth investments made pursuant to, or related to, the rural
12 development and distressed opportunity zone fund's participation in
13 the program, and determine whether the rural development and
14 distressed opportunity zone fund must repay to the state any portion
15 of the credit as described in subsections (2) and (3) of this
16 section.

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

19 (a) If the number of jobs created and jobs retained as a result
20 of the rural development and distressed opportunity zone fund's
21 investments is less than sixty percent of the amount filed as part of
22 the rural development and distressed opportunity zone fund's
23 application, the rural development and distressed opportunity zone
24 fund must repay to the state sixty percent of the amount of the tax
25 credit certificates issued to investors in the fund;

26 (b) If the number of jobs created and jobs retained as a result
27 of the rural development and distressed opportunity zone fund's
28 investments is less than eighty percent but more than sixty percent
29 of the amount filed as part of the rural development and distressed
30 opportunity zone fund's application, the rural development and
31 distressed opportunity zone fund must repay to the state thirty
32 percent of the amount of the tax credit certificates issued to
33 investors in the rural development and distressed opportunity zone
34 fund; and

35 (c) In measuring jobs created and jobs retained as a result of
36 the rural development and distressed opportunity zone fund's growth
37 investments, the department must prorate the number of jobs set forth
38 in the rural development and distressed opportunity zone fund's
39 business plan based upon the amount of investment authority requested

1 in the rural development and distressed opportunity zone fund's
2 application.

3 (3) For the aggregate state and local government revenues
4 generated by growth investments made pursuant to, or related to, the
5 rural development and distressed opportunity zone fund's
6 participation in the program, if the amount of aggregate state and
7 local government revenue generated by growth investments made
8 pursuant to, or related to, the rural development and distressed
9 opportunity zone fund's participation in the program over the course
10 of the rural development and distressed opportunity zone fund's
11 participation in the program is less than the cumulative amount of
12 tax credits that were issued to the rural development and distressed
13 opportunity zone fund's investors under section 7 or 13 of this act,
14 the rural development and distressed opportunity zone fund must repay
15 to the state one hundred percent of the difference between the
16 cumulative amount of tax credits that were issued to the rural
17 development and distressed opportunity zone fund's investors under
18 section 7 or 13 of this act and the actual aggregate state and local
19 government revenues generated by growth investments made pursuant to,
20 or related to, the rural development and distressed opportunity zone
21 fund's participation in the program. For purposes of this subsection,
22 "growth investments made pursuant to, or related to, the rural
23 development and distressed opportunity zone fund's participation in
24 the program" means those investments made by the rural development
25 and distressed opportunity zone fund in targeted small businesses in
26 qualified areas as part of the fund's investment authority under the
27 program, as well as any additional investments the rural development
28 and distressed opportunity zone fund made in those targeted small
29 businesses in qualified areas using sources of capital not included
30 within the rural development and distressed opportunity zone fund's
31 investment authority under the program.

32 (4) The department may contract with a firm with experience in
33 providing economic analysis and revenue projection for government
34 entities in order to evaluate the number of jobs created and jobs
35 retained by the rural development and distressed opportunity zone
36 fund, and the aggregate state and local government revenues generated
37 by growth investments made pursuant to, or related to, the rural
38 development and distressed opportunity zone fund's participation in
39 the program. The calculation of the aggregate state and local
40 government revenues generated by growth investments made pursuant to,

1 or related to, the rural development and distressed opportunity zone
2 fund's participation in the program must be performed using a dynamic
3 economic forecasting model.

4 (5) The department must provide written notice to the rural
5 development and distressed opportunity zone fund of any repayment due
6 under this section. The rural development and distressed opportunity
7 zone fund must submit payment to the department of revenue within
8 thirty days of the date of that notice. If the rural development and
9 distressed opportunity zone fund fails to pay the full amount by the
10 due date in the notice or any extension granted by the department of
11 revenue, the department of revenue must impose penalties and interest
12 as provided under chapter 82.32 RCW.

13 NEW SECTION. **Sec. 10.** REQUEST FOR DETERMINATION. A rural
14 development and distressed opportunity zone fund, before making a
15 growth investment, may request from the department a written opinion
16 as to whether the business in which it proposed to invest is a
17 targeted small business. The department, not later than the fifteenth
18 business day after the date of receipt of the request, must notify
19 the rural development and distressed opportunity zone fund of its
20 determination. If the department fails to notify the rural
21 development and distressed opportunity zone fund by the fifteenth
22 business day of its determination, the business in which the rural
23 development and distressed opportunity zone fund proposes to invest
24 must be considered a targeted small business.

25 NEW SECTION. **Sec. 11.** REPORTING OBLIGATIONS. (1) Each rural
26 development and distressed opportunity zone fund must submit a report
27 to the department on or before the fifth business day after each
28 anniversary of the closing date until the rural development and
29 distressed opportunity zone fund has exited the program in accordance
30 with section 8(4) of this act. The report must provide documentation
31 as to the rural development and distressed opportunity zone fund's
32 growth investments and include:

- 33 (a) A bank statement evidencing each growth investment;
34 (b) The name and location of principal operations;
35 (c) Industry NAICS code of each business receiving a growth
36 investment, including either the determination letter set forth in
37 section 10 of this act or evidence that the business qualified as a
38 targeted small business at the time the investment was made;

1 (d) The number of jobs created or retained as a result of the
2 rural development and distressed opportunity zone fund's growth
3 investments as of the last day of the preceding calendar year and the
4 assumptions used to determine the number of employment positions;

5 (e) The average annual salary of the positions described in (c)
6 of this subsection; and

7 (f) Any other information required by the department.

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

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

16 (a) The names of the applicants approved and the amount and type
17 of credit allocated to investors in the rural development and
18 distressed opportunity zone fund;

19 (b) The criteria used to select the applicants approved under
20 section 5 of this act; and

21 (c) A summary of the information reported by each rural
22 development and distressed opportunity zone fund under subsection (1)
23 of this section.

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

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

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

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

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

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

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

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

19 (7) The credit may not be transferred or allocated to any other
20 entity other than an affiliate subject to the business and occupation
21 taxes imposed under this chapter. The department of commerce must
22 provide the department with a copy of the amended tax credit
23 certificate of the transferor and the new tax credit certificate of
24 the transferee. The department must disallow tax credits claimed by
25 any transferee other than an affiliate of the transferor.

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

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

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

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

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

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

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

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

24 (c) "Rural development and distressed opportunity zone fund"
25 means an entity certified by the department of commerce under section
26 5 of this act.

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

28 NEW SECTION. **Sec. 14.** (1) The legislature finds that the
29 Washington state forest practices habitat conservation plan was
30 approved in 2006 by the United States fish and wildlife service and
31 the national oceanic and atmospheric administration's marine
32 fisheries service. The legislature further finds that the
33 conservation plan protects habitat of aquatic species, supports
34 economically viable and healthy forests, and creates regulatory
35 stability for landowners. The legislature further finds that funding
36 for the adaptive management program and participation grants are
37 required to implement the forest and fish agreement and meet the
38 goals of the conservation plan. The legislature further finds that
39 the surcharge on the timber products business and occupation tax rate

1 was agreed to by the forest products industry, tribal leaders, and
2 stakeholders as a way to provide funding and safeguard the future of
3 the conservation plan. The legislature further finds that the
4 forestry industry assumed significant financial obligation with the
5 enactment of this conservation plan, in exchange for operational
6 certainty under the endangered species act. Therefore, the
7 legislature concludes that the timber products business and
8 occupation tax rate and the surcharge should continue until the
9 expiration date of the forest and fish agreement, in 2056.

10 (2) The legislature finds that Washington has one of the
11 strongest economies in the country. However, the local economies in
12 some rural counties continue to struggle. The legislature further
13 finds that the economic prosperity of our state must be shared by all
14 of our communities. The legislature further finds that forest product
15 sectors provide family-wage jobs in economically struggling areas of
16 the state. The legislature further finds that in 2017 the Washington
17 forest products industry, directly and indirectly, employed one
18 hundred one thousand workers, earning 5.5 billion dollars in wages.
19 Therefore, the legislature concludes that the forest products
20 industries support our local rural economies and contribute towards
21 the effort to lower unemployment rates across the state, especially
22 in rural areas.

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

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

27 (a) Wheat into flour, barley into pearl barley, soybeans into
28 soybean oil, canola into canola oil, canola meal, or canola by-
29 products, or sunflower seeds into sunflower oil; as to such persons
30 the amount of tax with respect to such business is equal to the value
31 of the flour, pearl barley, oil, canola meal, or canola by-product
32 manufactured, multiplied by the rate of 0.138 percent;

33 (b) Beginning July 1, 2025, seafood products that remain in a
34 raw, raw frozen, or raw salted state at the completion of the
35 manufacturing by that person; or selling manufactured seafood
36 products that remain in a raw, raw frozen, or raw salted state at the
37 completion of the manufacturing, to purchasers who transport in the
38 ordinary course of business the goods out of this state; as to such
39 persons the amount of tax with respect to such business is equal to

1 the value of the products manufactured or the gross proceeds derived
2 from such sales, multiplied by the rate of 0.138 percent. Sellers
3 must keep and preserve records for the period required by RCW
4 82.32.070 establishing that the goods were transported by the
5 purchaser in the ordinary course of business out of this state;

6 (c)(i) Except as provided otherwise in (c)(iii) of this
7 subsection, from July 1, 2025, until January 1, 2036, dairy products;
8 or selling dairy products that the person has manufactured to
9 purchasers who either transport in the ordinary course of business
10 the goods out of state or purchasers who use such dairy products as
11 an ingredient or component in the manufacturing of a dairy product;
12 as to such persons the tax imposed is equal to the value of the
13 products manufactured or the gross proceeds derived from such sales
14 multiplied by the rate of 0.138 percent. Sellers must keep and
15 preserve records for the period required by RCW 82.32.070
16 establishing that the goods were transported by the purchaser in the
17 ordinary course of business out of this state or sold to a
18 manufacturer for use as an ingredient or component in the
19 manufacturing of a dairy product.

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

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

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

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

34 (d)(i) Beginning July 1, 2025, fruits or vegetables by canning,
35 preserving, freezing, processing, or dehydrating fresh fruits or
36 vegetables, or selling at wholesale fruits or vegetables manufactured
37 by the seller by canning, preserving, freezing, processing, or
38 dehydrating fresh fruits or vegetables and sold to purchasers who
39 transport in the ordinary course of business the goods out of this
40 state; as to such persons the amount of tax with respect to such

1 business is equal to the value of the products manufactured or the
2 gross proceeds derived from such sales multiplied by the rate of
3 0.138 percent. Sellers must keep and preserve records for the period
4 required by RCW 82.32.070 establishing that the goods were
5 transported by the purchaser in the ordinary course of business out
6 of this state.

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

10 (e) Wood biomass fuel; as to such persons the amount of tax with
11 respect to the business is equal to the value of wood biomass fuel
12 manufactured, multiplied by the rate of 0.138 percent. For the
13 purposes of this section, "wood biomass fuel" means a liquid or
14 gaseous fuel that is produced from lignocellulosic feedstocks,
15 including wood, forest, ~~((~~for~~))~~ or field residue~~((~~r~~))~~ and dedicated
16 energy crops, and that does not include wood treated with chemical
17 preservations such as creosote, pentachlorophenol, or copper-chrome-
18 arsenic.

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

23 (3) Upon every nonprofit corporation and nonprofit association
24 engaging within this state in research and development, as to such
25 corporations and associations, the amount of tax with respect to such
26 activities is equal to the gross income derived from such activities
27 multiplied by the rate of 0.484 percent.

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

33 (5) Upon every person engaging within this state in the business
34 of acting as a travel agent or tour operator; as to such persons the
35 amount of the tax with respect to such activities is equal to the
36 gross income derived from such activities multiplied by the rate of
37 0.275 percent.

38 (6) Upon every person engaging within this state in business as
39 an international steamship agent, international customs house broker,
40 international freight forwarder, vessel and/or cargo charter broker

1 in foreign commerce, and/or international air cargo agent; as to such
2 persons the amount of the tax with respect to only international
3 activities is equal to the gross income derived from such activities
4 multiplied by the rate of 0.275 percent.

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

34 (8) (a) Upon every person engaging within this state in the
35 business of disposing of low-level waste, as defined in RCW
36 43.145.010; as to such persons the amount of the tax with respect to
37 such business is equal to the gross income of the business, excluding
38 any fees imposed under chapter 43.200 RCW, multiplied by the rate of
39 3.3 percent.

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

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

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

18 (11)(a) Beginning October 1, 2005, upon every person engaging
19 within this state in the business of manufacturing commercial
20 airplanes, or components of such airplanes, or making sales, at
21 retail or wholesale, of commercial airplanes or components of such
22 airplanes, manufactured by the seller, as to such persons the amount
23 of tax with respect to such business is, in the case of
24 manufacturers, equal to the value of the product manufactured and the
25 gross proceeds of sales of the product manufactured, or in the case
26 of processors for hire, equal to the gross income of the business,
27 multiplied by the rate of:

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

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

31 (b) Beginning July 1, 2008, upon every person who is not eligible
32 to report under the provisions of (a) of this subsection (11) and is
33 engaging within this state in the business of manufacturing tooling
34 specifically designed for use in manufacturing commercial airplanes
35 or components of such airplanes, or making sales, at retail or
36 wholesale, of such tooling manufactured by the seller, as to such
37 persons the amount of tax with respect to such business is, in the
38 case of manufacturers, equal to the value of the product manufactured
39 and the gross proceeds of sales of the product manufactured, or in

1 the case of processors for hire, be equal to the gross income of the
2 business, multiplied by the rate of 0.2904 percent.

3 (c) For the purposes of this subsection (11), "commercial
4 airplane" and "component" have the same meanings as provided in RCW
5 82.32.550.

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

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

12 (ii) With respect to the manufacturing of commercial airplanes or
13 making sales, at retail or wholesale, of commercial airplanes, this
14 subsection (11) does not apply on and after July 1st of the year in
15 which the department makes a determination that any final assembly or
16 wing assembly of any version or variant of a commercial airplane that
17 is the basis of a siting of a significant commercial airplane
18 manufacturing program in the state under RCW 82.32.850 has been sited
19 outside the state of Washington. This subsection (11)(e)(ii) only
20 applies to the manufacturing or sale of commercial airplanes that are
21 the basis of a siting of a significant commercial airplane
22 manufacturing program in the state under RCW 82.32.850.

23 (12)(a) Until July 1, (~~2024~~) 2036, upon every person engaging
24 within this state in the business of extracting timber or extracting
25 for hire timber; as to such persons the amount of tax with respect to
26 the business is, in the case of extractors, equal to the value of
27 products, including by-products, extracted, or in the case of
28 extractors for hire, equal to the gross income of the business,
29 multiplied by the rate of 0.4235 percent from July 1, 2006, through
30 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
31 (~~2024~~) 2036.

32 (b) Until July 1, (~~2024~~) 2036, upon every person engaging
33 within this state in the business of manufacturing or processing for
34 hire: (i) Timber into timber products or wood products; or (ii)
35 timber products into other timber products or wood products; as to
36 such persons the amount of the tax with respect to the business is,
37 in the case of manufacturers, equal to the value of products,
38 including by-products, manufactured, or in the case of processors for
39 hire, equal to the gross income of the business, multiplied by the

1 rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and
2 0.2904 percent from July 1, 2007, through June 30, ((2024)) 2036.

3 (c) Until July 1, ((2024)) 2036, upon every person engaging
4 within this state in the business of selling at wholesale: (i) Timber
5 extracted by that person; (ii) timber products manufactured by that
6 person from timber or other timber products; or (iii) wood products
7 manufactured by that person from timber or timber products; as to
8 such persons the amount of the tax with respect to the business is
9 equal to the gross proceeds of sales of the timber, timber products,
10 or wood products multiplied by the rate of 0.4235 percent from July
11 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007,
12 through June 30, ((2024)) 2036.

13 (d) Until July 1, ((2024)) 2036, upon every person engaging
14 within this state in the business of selling standing timber; as to
15 such persons the amount of the tax with respect to the business is
16 equal to the gross income of the business multiplied by the rate of
17 0.2904 percent. For purposes of this subsection (12)(d), "selling
18 standing timber" means the sale of timber apart from the land, where
19 the buyer is required to sever the timber within thirty months from
20 the date of the original contract, regardless of the method of
21 payment for the timber and whether title to the timber transfers
22 before, upon, or after severance.

23 (e) For purposes of this subsection, the following definitions
24 apply:

25 (i) "Biocomposite surface products" means surface material
26 products containing, by weight or volume, more than fifty percent
27 recycled paper and that also use nonpetroleum-based phenolic resin as
28 a bonding agent.

29 (ii) "Paper and paper products" means products made of interwoven
30 cellulosic fibers held together largely by hydrogen bonding. "Paper
31 and paper products" includes newsprint; office, printing, fine, and
32 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
33 kraft bag, construction, and other kraft industrial papers;
34 paperboard, liquid packaging containers, containerboard, corrugated,
35 and solid-fiber containers including linerboard and corrugated
36 medium; and related types of cellulosic products containing
37 primarily, by weight or volume, cellulosic materials. "Paper and
38 paper products" does not include books, newspapers, magazines,
39 periodicals, and other printed publications, advertising materials,
40 calendars, and similar types of printed materials.

1 (iii) "Recycled paper" means paper and paper products having
2 fifty percent or more of their fiber content that comes from
3 postconsumer waste. For purposes of this subsection (12)(e)(iii),
4 "postconsumer waste" means a finished material that would normally be
5 disposed of as solid waste, having completed its life cycle as a
6 consumer item.

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

11 (v) "Timber products" means:

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

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

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

19 (vi) "Wood products" means paper and paper products; dimensional
20 lumber; engineered wood products such as particleboard, oriented
21 strand board, medium density fiberboard, and plywood; wood doors;
22 wood windows; and biocomposite surface products.

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

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

32 (14)(a) Upon every person engaging within this state in the
33 business of printing a newspaper, publishing a newspaper, or both,
34 the amount of tax on such business is equal to the gross income of
35 the business multiplied by the rate of 0.35 percent until July 1,
36 2024, and 0.484 percent thereafter.

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

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

3 (1) In addition to the taxes imposed under RCW 82.04.260(12), a
4 surcharge is imposed on those persons who are subject to any of the
5 taxes imposed under RCW 82.04.260(12). Except as otherwise provided
6 in this section, the surcharge is equal to 0.052 percent. The
7 surcharge is added to the rates provided in RCW 82.04.260(12) (a),
8 (b), (c), and (d). ~~((The surcharge and this section expire July 1,~~
9 ~~2024.))~~

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

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

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

16 (ii) The office of financial management certifies to the
17 department that the federal government has appropriated at least two
18 million dollars for participation in forest and fish report-related
19 activities by federally recognized Indian tribes located within the
20 geographical boundaries of the state of Washington for any federal
21 fiscal year.

22 (b)(i) The suspension of the surcharge under (a)(i) of this
23 subsection (3) takes effect on the first day of the calendar month
24 that is at least thirty days after the end of the month during which
25 the department determines that receipts from the surcharge total at
26 least eight million dollars during the fiscal biennium. The surcharge
27 is imposed again at the beginning of the following fiscal biennium.

28 (ii) The suspension of the surcharge under (a)(ii) of this
29 subsection (3) takes effect on the later of the first day of October
30 of any federal fiscal year for which the federal government
31 appropriates at least two million dollars for participation in forest
32 and fish report-related activities by federally recognized Indian
33 tribes located within the geographical boundaries of the state of
34 Washington, or the first day of a calendar month that is at least
35 thirty days following the date that the office of financial
36 management makes a certification to the department under subsection
37 (5) of this section. The surcharge is imposed again on the first day
38 of the following July.

39 (4)(a) If, by October 1st of any federal fiscal year, the office
40 of financial management certifies to the department that the federal

1 government has appropriated funds for participation in forest and
2 fish report-related activities by federally recognized Indian tribes
3 located within the geographical boundaries of the state of Washington
4 but the amount of the appropriation is less than two million dollars,
5 the department must adjust the surcharge in accordance with this
6 subsection.

7 (b) The department must adjust the surcharge by an amount that
8 the department estimates will cause the amount of funds deposited
9 into the forest and fish support account for the state fiscal year
10 that begins July 1st and that includes the beginning of the federal
11 fiscal year for which the federal appropriation is made, to be
12 reduced by twice the amount of the federal appropriation for
13 participation in forest and fish report-related activities by
14 federally recognized Indian tribes located within the geographical
15 boundaries of the state of Washington.

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

20 (d) The surcharge is imposed again at the rate provided in
21 subsection (1) of this section on the first day of the following
22 state fiscal year unless the surcharge is suspended under subsection
23 (3) of this section or adjusted for that fiscal year under this
24 subsection.

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

28 (f) The department must provide timely notice to affected
29 taxpayers of the suspension of the surcharge or an adjustment of the
30 surcharge.

31 (5) The office of financial management must make the
32 certification to the department as to the status of federal
33 appropriations for tribal participation in forest and fish report-
34 related activities.

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

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

1 NEW SECTION. **Sec. 18.** Sections 1 through 6, 8 through 12, and
2 19 of this act constitute a new chapter in Title 43 RCW.

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

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

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