

E3SHB 1324 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/16/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that while many
4 parts of the state are thriving economically, some rural and
5 distressed communities have struggled to keep pace. These communities
6 represent significant opportunity for economic growth and innovation.
7 However, businesses and entrepreneurs often find it difficult to
8 obtain the capital they need to expand and grow in these areas.
9 Therefore, it is the intent of the legislature to study the creation
10 of a program to incentivize private investments and job creation in
11 rural and distressed communities while ensuring no loss of revenue to
12 the state.

13 NEW SECTION. **Sec. 2.** (1) The Washington state institute for
14 public policy must conduct a study on certain programs incentivizing
15 private investment and job creation in rural and distressed
16 communities. In conducting the study, the institute must:

17 (a) Conduct a fifty-state review on the structure and
18 characteristics of certified capital company programs, new markets
19 tax credit programs, rural jobs programs, and other similar economic
20 development programs in other states; and

21 (b) Review any available research on these initiatives and, to
22 the extent possible, describe the effects of each type of initiative
23 on employment, earnings, property values, and job creation.

24 (2) The Washington state institute for public policy must submit
25 a report on its findings to the appropriate committees of the
26 legislature, in compliance with RCW 43.01.036, by July 1, 2020.

27 NEW SECTION. **Sec. 3.** (1) The legislature finds that the
28 Washington state forest practices habitat conservation plan was
29 approved in 2006 by the United States fish and wildlife service and
30 the national oceanic and atmospheric administration's marine
31 fisheries service. The legislature further finds that the

1 conservation plan protects habitat of aquatic species, supports
2 economically viable and healthy forests, and creates regulatory
3 stability for landowners. The legislature further finds that funding
4 for the adaptive management program and participation grants are
5 required to implement the forest and fish agreement and meet the
6 goals of the conservation plan. The legislature further finds that
7 the surcharge on the timber products business and occupation tax rate
8 was agreed to by the forest products industry, tribal leaders, and
9 stakeholders as a way to provide funding and safeguard the future of
10 the conservation plan. The legislature further finds that the
11 forestry industry assumed significant financial obligation with the
12 enactment of this conservation plan, in exchange for operational
13 certainty under the endangered species act. Therefore, the
14 legislature concludes that the timber products business and
15 occupation tax rate and the surcharge should continue until the
16 expiration date of the forest and fish agreement, in 2056.

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

30 **Sec. 4.** RCW 82.04.260 and 2018 c 164 s 3 are each amended to
31 read as follows:

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

34 (a) Wheat into flour, barley into pearl barley, soybeans into
35 soybean oil, canola into canola oil, canola meal, or canola by-
36 products, or sunflower seeds into sunflower oil; as to such persons
37 the amount of tax with respect to such business is equal to the value
38 of the flour, pearl barley, oil, canola meal, or canola by-product
39 manufactured, multiplied by the rate of 0.138 percent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 trailers, and other refrigerated cargo receptacles, and securing ship
2 hatch covers.

3 (8) (a) Upon every person engaging within this state in the
4 business of disposing of low-level waste, as defined in RCW
5 43.145.010; as to such persons the amount of the tax with respect to
6 such business is equal to the gross income of the business, excluding
7 any fees imposed under chapter 43.200 RCW, multiplied by the rate of
8 3.3 percent.

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

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

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

26 (11) (a) Beginning October 1, 2005, upon every person engaging
27 within this state in the business of manufacturing commercial
28 airplanes, or components of such airplanes, or making sales, at
29 retail or wholesale, of commercial airplanes or components of such
30 airplanes, manufactured by the seller, as to such persons the amount
31 of tax with respect to such business is, in the case of
32 manufacturers, equal to the value of the product manufactured and the
33 gross proceeds of sales of the product manufactured, or in the case
34 of processors for hire, equal to the gross income of the business,
35 multiplied by the rate of:

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

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

39 (b) Beginning July 1, 2008, upon every person who is not eligible
40 to report under the provisions of (a) of this subsection (11) and is

1 engaging within this state in the business of manufacturing tooling
2 specifically designed for use in manufacturing commercial airplanes
3 or components of such airplanes, or making sales, at retail or
4 wholesale, of such tooling manufactured by the seller, as to such
5 persons the amount of tax with respect to such business is, in the
6 case of manufacturers, equal to the value of the product manufactured
7 and the gross proceeds of sales of the product manufactured, or in
8 the case of processors for hire, be equal to the gross income of the
9 business, multiplied by the rate of 0.2904 percent.

10 (c) For the purposes of this subsection (11), "commercial
11 airplane" and "component" have the same meanings as provided in RCW
12 82.32.550.

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

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

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

30 (12) (a) Until July 1, (~~2024~~) 2036, upon every person engaging
31 within this state in the business of extracting timber or extracting
32 for hire timber; as to such persons the amount of tax with respect to
33 the business is, in the case of extractors, equal to the value of
34 products, including by-products, extracted, or in the case of
35 extractors for hire, equal to the gross income of the business,
36 multiplied by the rate of 0.4235 percent from July 1, 2006, through
37 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
38 (~~2024~~) 2036.

39 (b) Until July 1, (~~2024~~) 2036, upon every person engaging
40 within this state in the business of manufacturing or processing for

1 hire: (i) Timber into timber products or wood products; ~~((or))~~ (ii)
2 timber products into other timber products or wood products; or (iii)
3 products defined in RCW 19.27.570(1); as to such persons the amount
4 of the tax with respect to the business is, in the case of
5 manufacturers, equal to the value of products, including by-products,
6 manufactured, or in the case of processors for hire, equal to the
7 gross income of the business, multiplied by the rate of 0.4235
8 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent
9 from July 1, 2007, through June 30, ~~((2024))~~ 2036.

10 (c) Until July 1, ~~((2024))~~ 2036, upon every person engaging
11 within this state in the business of selling at wholesale: (i) Timber
12 extracted by that person; (ii) timber products manufactured by that
13 person from timber or other timber products; ~~((or))~~ (iii) wood
14 products manufactured by that person from timber or timber products;
15 or (iv) products defined in RCW 19.27.570(1) manufactured by that
16 person as to such persons the amount of the tax with respect to the
17 business is equal to the gross proceeds of sales of the timber,
18 timber products, ~~((or))~~ wood products, or products defined in RCW
19 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1,
20 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007,
21 through June 30, ~~((2024))~~ 2036.

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

32 (e) For purposes of this subsection, the following definitions
33 apply:

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

38 (ii) "Paper and paper products" means products made of interwoven
39 cellulosic fibers held together largely by hydrogen bonding. "Paper
40 and paper products" includes newsprint; office, printing, fine, and

1 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
2 kraft bag, construction, and other kraft industrial papers;
3 paperboard, liquid packaging containers, containerboard, corrugated,
4 and solid-fiber containers including linerboard and corrugated
5 medium; and related types of cellulosic products containing
6 primarily, by weight or volume, cellulosic materials. "Paper and
7 paper products" does not include books, newspapers, magazines,
8 periodicals, and other printed publications, advertising materials,
9 calendars, and similar types of printed materials.

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

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

20 (v) "Timber products" means:

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

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

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

28 (vi) "Wood products" means paper and paper products; dimensional
29 lumber; engineered wood products such as particleboard, oriented
30 strand board, medium density fiberboard, and plywood; wood doors;
31 wood windows; and biocomposite surface products.

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

36 (g) Nothing in this subsection (12) may be construed to affect
37 the taxation of any activity defined as a retail sale in RCW
38 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW
39 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

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. 5.** 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. 6.** The provisions of RCW 82.32.808 do not
13 apply to sections 4 and 5 of this act.

14 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
15 this act, referencing this act by bill or chapter number, is not
16 provided by June 30, 2019, in the omnibus appropriations act, this
17 act is null and void."

E3SHB 1324 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/16/2019

18 On page 1, line 2 of the title, after "act;" strike the remainder
19 of the title and insert "amending RCW 82.04.260 and 82.04.261;
20 creating new sections; and providing an expiration date."

EFFECT: (1) Directs the Washington State Institute for Public
Policy to conduct a study on certain programs incentivizing private
investment and job creation in rural and distressed communities.

(2) Removes language creating the Rural Development and
Distressed Opportunity Zone Program.

(3) Extends the preferential B&O rate for timber products to mass
timber products.

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