
SECOND SUBSTITUTE HOUSE BILL 1324

State of Washington

66th Legislature

2019 Regular Session

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

READ FIRST TIME 02/22/19.

1 AN ACT Relating to creating the Washington rural development and
2 opportunity zone act; amending RCW 82.04.260 and 82.04.261; adding a
3 new section to chapter 48.14 RCW; adding a new section to chapter
4 82.04 RCW; adding a new chapter to Title 43 RCW; creating new
5 sections; and providing expiration dates.

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

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

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

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

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

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

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

16 (c) Have submitted a business plan that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (14) "Qualified area" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (d) A business plan that includes a revenue impact assessment
14 projecting state and local tax revenue to be generated by the
15 applicant's proposed growth investments prepared by a nationally
16 recognized third-party independent economic forecasting firm using a
17 dynamic economic forecasting model that analyzes the applicant's
18 business plan over the ten years following the date the application
19 is submitted to the department;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (a) Within sixty days:

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

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

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

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

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

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

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

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

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

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

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

17 (13) Application fees submitted to the department under
18 subsection (1)(f) of this section must be deposited in the rural
19 development and opportunity zone account created in section 6 of this
20 act.

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

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

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

36 (2) A taxpayer earns a credit on the closing date noted on the
37 taxpayer's tax credit certificate issued under section 5 of this act.
38 The credit is equal to the amount of the taxpayer's credit-eligible

1 capital contribution to the rural development and opportunity zone
2 fund as specified on the tax credit certificate.

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

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

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

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

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

30 (8) The department must notify the office of the insurance
31 commissioner if a tax credit certificate was revoked as provided in
32 section 8 of this act. Upon such notice, the office of the insurance
33 commissioner must:

34 (a) Provide written notice to the taxpayer or any affiliate to
35 which the credit was transferred that the credit was revoked by the
36 department;

37 (b) Include in the notice the amount of all credits previously
38 claimed and that such amount be paid in full within thirty days of
39 the date of the notice. If the taxpayer or the affiliate fails to pay
40 the amount in full by the due date in the notice or any extension

1 granted by the office of the insurance commissioner, the office of
2 the insurance commissioner must impose penalties and interest
3 consistent with RCW 48.14.060; and

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

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

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

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

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

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

29 NEW SECTION. **Sec. 8.** REVOCATION OF TAX CREDIT CERTIFICATES AND
30 EXIT. (1) The department must revoke a tax credit certificate issued
31 under section 5 of this act if any of the following occur with
32 respect to a rural development and opportunity zone fund before it
33 exits the program in accordance with subsection (4) of this section:

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

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

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

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

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

1 (2) Before revoking one or more tax credit certificates under
2 this subsection, the department must notify the rural development and
3 opportunity zone fund of the reasons for the pending revocation. The
4 rural development and opportunity zone fund has ninety days from the
5 date the notice was dispatched to correct any violation outlined in
6 the notice to the satisfaction of the department and avoid revocation
7 of the tax credit certificate.

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

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

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

34 NEW SECTION. **Sec. 9.** (1) Before approving the exit of a rural
35 development and opportunity zone fund from the program, the
36 department must evaluate the number of jobs created and jobs retained
37 by the rural development and opportunity zone fund, and the aggregate
38 state and local government revenues generated by growth investments
39 made pursuant to, or related to, the rural development and

1 opportunity zone fund's participation in the program, and determine
2 whether the rural development and opportunity zone fund must repay to
3 the state any portion of the credit as described in subsections (2)
4 and (3) of this section.

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

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

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

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

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

1 development and opportunity zone fund's investors under section 7 or
2 13 of this act and the actual aggregate state and local government
3 revenues generated by growth investments made pursuant to, or related
4 to, the rural development and opportunity zone fund's participation
5 in the program.

6 (a) For purposes of this subsection, the actual aggregate state
7 and local government revenues generated by growth investments made
8 pursuant to, or related to, the rural development and opportunity
9 zone fund's participation in the program must be calculated by a
10 nationally recognized third-party independent economic forecasting
11 firm using a dynamic economic forecasting model that analyzes the
12 rural development and opportunity zone fund's growth investments made
13 pursuant to, or related to, the rural development and opportunity
14 zone fund's participation in the program.

15 (b) For purposes of this subsection, "growth investments made
16 pursuant to, or related to, the rural development and opportunity
17 zone fund's participation in the program" means those investments
18 made by the rural development and opportunity zone fund in targeted
19 small businesses in qualified areas as part of the fund's investment
20 authority under the program, as well as any additional investments
21 the rural development and opportunity zone fund made in those
22 targeted small businesses in qualified areas using sources of capital
23 not included within the rural development and opportunity zone fund's
24 investment authority under the program.

25 (4) The department must provide written notice to the rural
26 development and opportunity zone fund of any repayment due under this
27 section. The rural development and opportunity zone fund must submit
28 payment to the department of revenue within thirty days of the date
29 of that notice. If the rural development and opportunity zone fund
30 fails to pay the full amount by the due date in the notice or any
31 extension granted by the department of revenue, the department of
32 revenue must impose penalties and interest as provided under chapter
33 82.32 RCW.

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

1 development and opportunity zone fund of its determination. If the
2 department fails to notify the rural development and opportunity zone
3 fund by the fifteenth business day of its determination, the business
4 in which the rural development and opportunity zone fund proposes to
5 invest must be considered a targeted small business.

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

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

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

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

- 35 (a) The names of the applicants approved and the amount and type
36 of credit allocated to investors in the rural development and
37 opportunity zone fund;
- 38 (b) The criteria used to select the applicants approved under
39 section 5 of this act; and

1 (c) A summary of the information reported by each rural
2 development and opportunity zone fund under subsection (1) of this
3 section.

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

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

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

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

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

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

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

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

36 (7) The credit may not be transferred or allocated to any other
37 entity other than an affiliate subject to the business and occupation
38 taxes imposed under this chapter. The department of commerce must

1 provide the department with a copy of the amended tax credit
2 certificate of the transferor and the new tax credit certificate of
3 the transferee. The department must disallow tax credits claimed by
4 any transferee other than an affiliate of the transferor.

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

8 (a) Provide written notice to the taxpayer or any affiliate to
9 which the credit was transferred that the credit was revoked by the
10 department;

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

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

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

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

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

31 (b) "Credit-eligible capital contribution" means an investment of
32 cash by a person subject to (a) business and occupation taxes under
33 chapter 82.04 RCW and/or (b) insurance premium taxes under chapter
34 48.14 RCW in a rural development and opportunity zone fund that
35 equals the amount specified on a tax credit certificate issued by the
36 department of commerce under section 5 of this act. The investment
37 must purchase an equity interest in the rural development and
38 opportunity zone fund or purchase, at par value or premium, a debt
39 instrument that has a maturity date at least five years from the

1 closing date and a repayment schedule that is no faster than level
2 principal amortization over five years.

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

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

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

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

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

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

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

11 (b) Beginning July 1, 2025, seafood products that remain in a
12 raw, raw frozen, or raw salted state at the completion of the
13 manufacturing by that person; or selling manufactured seafood
14 products that remain in a raw, raw frozen, or raw salted state at the
15 completion of the manufacturing, to purchasers who transport in the
16 ordinary course of business the goods out of this state; as to such
17 persons the amount of tax with respect to such business is equal to
18 the value of the products manufactured or the gross proceeds derived
19 from such sales, multiplied by the rate of 0.138 percent. Sellers
20 must keep and preserve records for the period required by RCW
21 82.32.070 establishing that the goods were transported by the
22 purchaser in the ordinary course of business out of this state;

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

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

39 (A) Products, not including any marijuana-infused product, that
40 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,

1 parts 131, 133, and 135, including by-products from the manufacturing
2 of the dairy products, such as whey and casein; and

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

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

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

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

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

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

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

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

11 (5) Upon every person engaging within this state in the business
12 of acting as a travel agent or tour operator; as to such persons the
13 amount of the tax with respect to such activities is equal to the
14 gross income derived from such activities multiplied by the rate of
15 0.275 percent.

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

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

1 for delivery to its consignee. Specific activities included in this
2 definition are: Wharfage, handling, loading, unloading, moving of
3 cargo to a convenient place of delivery to the consignee or a
4 convenient place for further movement to export mode; documentation
5 services in connection with the receipt, delivery, checking, care,
6 custody and control of cargo required in the transfer of cargo;
7 imported automobile handling prior to delivery to consignee; terminal
8 stevedoring and incidental vessel services, including but not limited
9 to plugging and unplugging refrigerator service to containers,
10 trailers, and other refrigerated cargo receptacles, and securing ship
11 hatch covers.

12 (8) (a) Upon every person engaging within this state in the
13 business of disposing of low-level waste, as defined in RCW
14 43.145.010; as to such persons the amount of the tax with respect to
15 such business is equal to the gross income of the business, excluding
16 any fees imposed under chapter 43.200 RCW, multiplied by the rate of
17 3.3 percent.

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

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

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

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

1 manufacturers, equal to the value of the product manufactured and the
2 gross proceeds of sales of the product manufactured, or in the case
3 of processors for hire, equal to the gross income of the business,
4 multiplied by the rate of:

5 (i) 0.4235 percent from October 1, 2005, through June 30, 2007;

6 and

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

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

19 (c) For the purposes of this subsection (11), "commercial
20 airplane" and "component" have the same meanings as provided in RCW
21 82.32.550.

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

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

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

39 (12)(a) Until July 1, (~~2024~~) 2036, upon every person engaging
40 within this state in the business of extracting timber or extracting

1 for hire timber; as to such persons the amount of tax with respect to
2 the business is, in the case of extractors, equal to the value of
3 products, including by-products, extracted, or in the case of
4 extractors for hire, equal to the gross income of the business,
5 multiplied by the rate of 0.4235 percent from July 1, 2006, through
6 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
7 ((2024)) 2036.

8 (b) Until July 1, ((2024)) 2036, upon every person engaging
9 within this state in the business of manufacturing or processing for
10 hire: (i) Timber into timber products or wood products; or (ii)
11 timber products into other timber products or wood products; as to
12 such persons the amount of the tax with respect to the business is,
13 in the case of manufacturers, equal to the value of products,
14 including by-products, manufactured, or in the case of processors for
15 hire, equal to the gross income of the business, multiplied by the
16 rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and
17 0.2904 percent from July 1, 2007, through June 30, ((2024)) 2036.

18 (c) Until July 1, ((2024)) 2036, upon every person engaging
19 within this state in the business of selling at wholesale: (i) Timber
20 extracted by that person; (ii) timber products manufactured by that
21 person from timber or other timber products; or (iii) wood products
22 manufactured by that person from timber or timber products; as to
23 such persons the amount of the tax with respect to the business is
24 equal to the gross proceeds of sales of the timber, timber products,
25 or wood products multiplied by the rate of 0.4235 percent from July
26 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007,
27 through June 30, ((2024)) 2036.

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

38 (e) For purposes of this subsection, the following definitions
39 apply:

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

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

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

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

27 (v) "Timber products" means:

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

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

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

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

39 (f) Except for small harvesters as defined in RCW 84.33.035, a
40 person reporting under the tax rate provided in this subsection (12)

1 must file a complete annual tax performance report with the
2 department under RCW 82.32.534.

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

8 (14)(a) Upon every person engaging within this state in the
9 business of printing a newspaper, publishing a newspaper, or both,
10 the amount of tax on such business is equal to the gross income of
11 the business multiplied by the rate of 0.35 percent until July 1,
12 2024, and 0.484 percent thereafter.

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

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

18 (1) In addition to the taxes imposed under RCW 82.04.260(12), a
19 surcharge is imposed on those persons who are subject to any of the
20 taxes imposed under RCW 82.04.260(12). Except as otherwise provided
21 in this section, the surcharge is equal to 0.052 percent. The
22 surcharge is added to the rates provided in RCW 82.04.260(12) (a),
23 (b), (c), and (d). ~~((The surcharge and this section expire July 1,
24 2024.))~~

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

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

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

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

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

1 the department determines that receipts from the surcharge total at
2 least eight million dollars during the fiscal biennium. The surcharge
3 is imposed again at the beginning of the following fiscal biennium.

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

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

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

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

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

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

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

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

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

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

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

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

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