CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5977**

Chapter 37, Laws of 2017

(partial veto)

65th Legislature

2017 3rd Special Session

REVENUE--CREDITS, EXEMPTIONS, DEFERRALS--VARIOUS CHANGES

EFFECTIVE DATE: October 19, 2017 -- Except for sections 101 through 104, 403, 503, 506, 508, 526, 703, 705, 707, and 801 through 803, which become effective January 1, 2018; sections 301 and 302 and 1001 through 1003, which become effective July 1, 2017; sections 401 and 402, which become effective June 30, 2017; sections 509 through 524, which are contingent; and sections 1301 and 1302, which become effective January 1, 2022.

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| Passed by the Senate June 30, 2017  Yeas 33 Nays 16  CYRUS HABIB  **President of the Senate**  Passed by the House June 30, 2017  Yeas 83 Nays 10  FRANK CHOPP  **Speaker of the House of Representatives** | CERTIFICATE  I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5977** as passed by Senate and the House of Representatives on the dates hereon set forth.  HUNTER G. GOODMAN  **Chief Clerk** |
| Approved July 7, 2017 2:52 PM with exception of sections 201-205 and 601-606, which are vetoed. | July 7, 2017 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SUBSTITUTE SENATE BILL 5977**

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Passed Legislature - 2017 3rd Special Session

**State of Washington 65th Legislature 2017 3rd Special Session**

**By** Senate Ways & Means (originally sponsored by Senator Rossi)

AN ACT Relating to revenue; amending RCW 82.73.020, 82.73.030, 82.04.240, 82.04.240, 82.04.280, 82.04.294, 82.04.294, 82.04.2404, 82.04.2404, 82.08.9651, 82.08.9651, 82.12.9651, 82.12.9651, 82.08.965, 82.08.965, 82.12.965, 82.12.965, 84.36.645, 84.36.645, 82.04.448, 82.04.448, 82.04.240, 82.04.240, 82.08.970, 82.08.970, 82.12.970, 82.12.970, 82.04.426, 82.04.426, 82.32.790, 82.14.050, 82.14.060, 82.16.---, 82.04.---, 82.12.022, 82.12.022, 82.85.010, 82.85.020, 82.85.040, 82.32.580, 84.34.108, 82.04.4489, 43.365.010, 82.04.050, and 82.29A.120; reenacting and amending RCW 82.32.790, 82.32.790, 84.33.140, and 82.29A.130; adding a new section to chapter 82.73 RCW; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding new sections to chapter 82.32 RCW; adding a new section to chapter 82.16 RCW; creating new sections; providing effective dates; providing a contingent effective date; providing expiration dates; providing contingent expiration dates; and declaring an emergency.

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

**Part I**

**Modifying the Washington Main Street Program**

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preference contained in section 103, chapter . . ., Laws of 2017 3rd sp. sess. (section 103 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to promote contributions to main street programs and to enhance community and economic revitalization and development of main street business districts under categories as indicated in RCW 82.32.808(2) (a) and (f).

(2) It is the legislature's specific public policy objective to support and work in concert with main street programs to accomplish community and economic revitalization of business districts as specified in RCW 43.360.005. It is the legislature's intent to provide tax credits to businesses in main street communities to promote contributions to such programs as provided in RCW 82.73.030, in order to maintain the economic viability of rural downtown areas (main streets), thereby ensuring the growth and retention of businesses in rural communities.

(3) If a review finds that the number of businesses that are a part of main street communities has increased or stayed the same, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to data collected by the department of archaeology and historic preservation.

**Sec.**  RCW 82.73.020 and 2005 c 514 s 903 are each amended to read as follows:

(1) Application for tax credits under this chapter must be ((~~made~~)) submitted to the department before making a contribution to a program or the main street trust fund. The application ((~~shall~~)) must be made to the department in a form and manner prescribed by the department. The application ((~~shall~~)) must contain information regarding the proposed amount of contribution to a program or the main street trust fund, and other information required by the department to determine eligibility under this chapter ((~~514, Laws of 2005~~)). The department ((~~shall~~)) must rule on the application within forty-five days. Except as provided in RCW 82.73.030(5), applications ((~~shall~~)) must be approved on a first-come basis.

(2) ((~~The person must make the contribution described in the approved application by the end of the calendar year in which the application is approved to claim a credit allowed under RCW 82.73.030.~~

~~(3)~~)) The department ((~~shall~~)) may not accept any applications before ((~~January 1, 2006~~)) the second Monday in January of each calendar year.

**Sec.**  RCW 82.73.030 and 2005 c 514 s 904 are each amended to read as follows:

(1) Subject to the limitations in this chapter, a credit is allowed against the tax imposed by chapters 82.04 and 82.16 RCW for approved contributions that are made by a person to a program or the main street trust fund.

(2) The credit allowed under this section is limited to an amount equal to:

(a) Seventy-five percent of the approved contribution made by a person to a program; or

(b) Fifty percent of the approved contribution made by a person to the main street trust fund.

(3) The department may not approve credit with respect to a program in a city or town with a population of one hundred ninety thousand persons or more.

(4) The department ((~~shall~~)) must keep a running total of all credits approved under this chapter for each calendar year. The department ((~~shall~~)) may not approve any credits under this section that would cause the total amount of approved credits statewide to exceed ((~~one~~)) two million five hundred thousand dollars in any calendar year.

(5)(a)(i) The total credits allowed under this chapter for contributions made to each program may not exceed one hundred thousand dollars in a calendar year.

(ii) Between the second Monday in January and March 31st of the same calendar year, the department must evenly allocate the amount of statewide credits allowed under subsection (4) of this section based on the total number of programs and the main street trust fund as of January 1st in the same calendar year. The department may not approve contributions for a program or the main street trust fund that would cause the total amount of approved credits for a program or the main street trust fund to exceed the allocated amount.

(b) The total credits allowed under this chapter for a person may not exceed two hundred fifty thousand dollars in a calendar year.

(6) The credit may be claimed against any tax due under chapters 82.04 and 82.16 RCW only in the calendar year immediately following the calendar year in which the credit was approved by the department and the contribution was made to the program or the main street trust fund. Credits may not be carried over to subsequent years. No refunds may be granted for credits under this chapter.

(7) The total amount of the credit claimed in any calendar year by a person may not exceed the lesser amount of:

(a) The approved credit((~~,~~)); or

(b) Seventy-five percent of the amount of the contribution that is made by the person to a program and fifty percent of the amount of the contribution that is made by the person to the main street trust fund, in the prior calendar year.

NEW SECTION. **Sec.**  A new section is added to chapter 82.73 RCW to read as follows:

(1) A person that was approved for credit as provided in RCW 82.73.020 must make the total approved contribution by November 15th of the calendar year in which the application is approved. If November 15th falls upon a Saturday, Sunday, or legal holiday, the payment of the contribution will be considered timely if made on the next business day.

(2)(a) A person that does not make a contribution as required in subsection (1) of this section forfeits all credits for the approved contribution.

(b) The department must make credits forfeited as provided in (a) of this subsection available to new applicants.

(3) A person that was approved for credit as provided in RCW 82.73.020 after November 15th must make the total approved contribution by the end of the calendar year in which the contribution was approved.

***\*Part II***

***Lowering the Ceiling of the Business and Occupation Manufacturing Rate to 0.2904%***

**Sec.**  RCW 82.04.240 and 2004 c 24 s 4 are each amended to read as follows:

Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business ((~~shall be~~)) is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of ((~~0.484 percent~~)):

(a) 0.484 percent through December 31, 2018;

(b) 0.4356 percent from January 1, 2019, through December 31, 2019;

(c) 0.3872 percent from January 1, 2020, through December 31, 2020;

(d) 0.3388 percent from January 1, 2021, through December 31, 2021; and

(e) 0.2904 from January 1, 2022, and thereafter.

The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

**Sec.**  RCW 82.04.240 and 2017 c 135 s 9 are each amended to read as follows:

(1) Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of ((~~0.484 percent~~)):

(a) 0.484 percent through December 31, 2018;

(b) 0.4356 percent from January 1, 2019, through December 31, 2019;

(c) 0.3872 percent from January 1, 2020, through December 31, 2020;

(d) 0.3388 percent from January 1, 2021, through December 31, 2021; and

(e) 0.2904 from January 1, 2022, and thereafter.

(2)(a) Upon every person engaging within this state in the business of manufacturing semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent. For the purposes of this subsection "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(b) A person reporting under the tax rate provided in this subsection (2) must file a complete annual tax performance report with the department under RCW 82.32.534.

(c) This subsection (2) expires twelve years after the effective date of this act.

(3) The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

**Sec.**  RCW 82.04.280 and 2017 c 323 s 508 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of: (a) Printing materials other than newspapers, and of publishing periodicals or magazines; (b) building, repairing or improving any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (c) extracting for hire ((~~or processing for hire~~)), except persons taxable as extractors for hire ((~~or processors for hire~~)) under another section of this chapter; (d) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (e) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW; (f) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the federal communications commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (g) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.484 percent.

(2) Upon every person engaging within this state in the business of processing for hire, except persons taxable as processors for hire under another section of this chapter; as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of:

(a) 0.484 percent through December 31, 2018;

(b) 0.4356 percent from January 1, 2019, through December 31, 2019;

(c) 0.3872 percent from January 1, 2020, through December 31, 2020;

(d) 0.3388 percent from January 1, 2021, through December 31, 2021; and

(e) 0.2904 from January 1, 2022, and thereafter.

(3) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

(b) "Storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. "Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under RCW 82.04.272 is conducted.

(c) "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

**Sec.**  RCW 82.32.790 and 2017 c 323 s 509 and 2017 c 135 s 47 are each reenacted and amended to read as follows:

(1)(a) Section 202, chapter . . ., Laws of 2017 3rd sp. sess. (section 202 of this act), sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not authorized to make a second determination regarding the effective date of the sections referenced in subsection (1) of this section.

NEW SECTION. **Sec.**  Part II of this act is exempt from the automatic expiration date provisions of RCW 82.32.805(1)(a).

**Part III**

**Business and Occupation Tax Exemption for Agricultural Fertilizer and Seed**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in section 302, chapter . . ., Laws of 2017 3rd sp. sess. (section 302 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to reduce structural inefficiencies, as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to provide tax relief to certain distributors of commercial fertilizer, agricultural crop protection products, and seeds. If a review finds that the number of wholesalers of agricultural crop protection products, seed, and fertilizer qualifying for the exemption has increased or stayed the same, then the legislature intends to extend the expiration date of the tax preferences.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to the department of revenue's data.

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

(1) This chapter does not apply to wholesale sales of commercial fertilizer, agricultural crop protection products, and seed, by an eligible distributor to an eligible retailer.

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

(a) "Affiliated persons" means persons who have any ownership interest, whether direct or indirect, in each other, or where any ownership interest, whether direct or indirect, is held in each of the persons by another person or by a group of other persons that are affiliated with respect to each other.

(b) "Agricultural crop protection products" has the same meaning as provided in RCW 82.21.040.

(c) "Commercial fertilizer" has the same meaning as provided in RCW 15.54.270.

(d) "Seed" means seed potatoes and all other "agricultural seed" as defined in RCW 15.49.011 and conditioned for use in planting.

(e) "Eligible distributor" means a wholesaler who purchases commercial fertilizer, agricultural crop protection products, and seed from the manufacturer and resells those products only to eligible retailers who are not affiliated persons and who have an ownership interest in an entity that has at least a fifty percent ownership interest in the wholesaler.

(f) "Eligible retailer" means a person engaged in the business of making retail sales of commercial fertilizer, agricultural crop protection products, and seed, that also holds at least a five percent ownership interest in an entity that holds at least a fifty percent ownership interest in an eligible distributor.

(3) This section is exempt from the provisions of RCW 82.32.805 and 82.32.808.

**Part IV**

**Solar Silicon Manufacturing**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in sections 402 and 403, chapter . . ., Laws of 2017 3rd sp. sess. (sections 402 and 403 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to maintain and grow jobs in the solar silicon industry. Trade disputes currently threaten employment in this sector. It is the legislature's intent to extend by ten years the preferential tax rates for manufacturers and wholesalers of specific solar energy material and parts in order to maintain and grow jobs in the solar silicon industry.

(4) If a review finds that the number of people employed by the solar silicon industry in Washington is the same or more than in 2015, and that at least sixty percent of employees earn sixty thousand dollars a year or more, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the department of revenue's annual survey data.

**Sec.**  RCW 82.04.294 and 2013 2nd sp.s. c 13 s 902 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing solar energy systems using photovoltaic modules or stirling converters, or of manufacturing solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems; as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) Upon every person engaging within this state in the business of making sales at wholesale of solar energy systems using photovoltaic modules or stirling converters, or of solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems, manufactured by that person; as to such persons the amount of tax with respect to such business is equal to the gross proceeds of sales of the solar energy systems using photovoltaic modules or stirling converters, or of the solar grade silicon to be used exclusively in components of such systems, multiplied by the rate of 0.275 percent.

(3) Silicon solar wafers, silicon solar cells, thin film solar devices, solar grade silicon, or compound semiconductor solar wafers are "semiconductor materials" for the purposes of RCW 82.08.9651 and 82.12.9651.

(4) The definitions in this subsection apply throughout this section.

(a) "Compound semiconductor solar wafers" means a semiconductor solar wafer composed of elements from two or more different groups of the periodic table.

(b) "Module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(c) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(d) "Silicon solar cells" means a photovoltaic cell manufactured from a silicon solar wafer.

(e) "Silicon solar wafers" means a silicon wafer manufactured for solar conversion purposes.

(f) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(g) "Solar grade silicon" means high‑purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors.

(h) "Stirling converter" means a device that produces electricity by converting heat from a solar source utilizing a stirling engine.

(i) "Thin film solar devices" means a nonparticipating substrate on which various semiconducting materials are deposited to produce a photovoltaic cell that is used to generate electricity.

(5) A person reporting under the tax rate provided in this section must file a complete annual survey with the department under RCW 82.32.585.

(6) This section expires ((~~June 30, 2017~~)) July 1, 2027.

**Sec.**  RCW 82.04.294 and 2017 c ... s 402 (section 402 of this act) are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing solar energy systems using photovoltaic modules or stirling converters, or of manufacturing solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems; as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) Upon every person engaging within this state in the business of making sales at wholesale of solar energy systems using photovoltaic modules or stirling converters, or of solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems, manufactured by that person; as to such persons the amount of tax with respect to such business is equal to the gross proceeds of sales of the solar energy systems using photovoltaic modules or stirling converters, or of the solar grade silicon to be used exclusively in components of such systems, multiplied by the rate of 0.275 percent.

(3) Silicon solar wafers, silicon solar cells, thin film solar devices, solar grade silicon, or compound semiconductor solar wafers are "semiconductor materials" for the purposes of RCW 82.08.9651 and 82.12.9651.

(4) The definitions in this subsection apply throughout this section.

(a) "Compound semiconductor solar wafers" means a semiconductor solar wafer composed of elements from two or more different groups of the periodic table.

(b) "Module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(c) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(d) "Silicon solar cells" means a photovoltaic cell manufactured from a silicon solar wafer.

(e) "Silicon solar wafers" means a silicon wafer manufactured for solar conversion purposes.

(f) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(g) "Solar grade silicon" means high‑purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors.

(h) "Stirling converter" means a device that produces electricity by converting heat from a solar source utilizing a stirling engine.

(i) "Thin film solar devices" means a nonparticipating substrate on which various semiconducting materials are deposited to produce a photovoltaic cell that is used to generate electricity.

(5) A person reporting under the tax rate provided in this section must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534.

(6) This section expires July 1, 2027.

**Part V**

**Semiconductor Materials Manufacturing**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in sections 502 and 503, chapter . . ., Laws of 2017 3rd sp. sess. (sections 502 and 503 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to maintain and expand business in the semiconductor cluster. It is the legislature's intent to extend by ten years the preferential tax rates for manufacturers and processors for hire of semiconductor materials in order to maintain and grow jobs in the semiconductor cluster.

(4) If a review finds that: (a) Since the effective date of this section at least one project in the semiconductor cluster has located in Clark county, and that this project generates at least two thousand five hundred high-wage jobs, all of which pay twenty dollars per hour or more and at least eighty percent of which pay thirty-five dollars per hour or more; and (b) the number of jobs in the semiconductor cluster in Washington has increased since the effective date of this section, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the department of revenue's annual survey data.

**Sec.**  RCW 82.04.2404 and 2010 c 114 s 105 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing or processing for hire semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) For the purposes of this section "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers.

(3) A person reporting under the tax rate provided in this section must file a complete annual report with the department under RCW 82.32.534.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed; or

(b) The person is subject to a review under section 501(4)(a) of this act and such person does not meet performance criteria in section 501(4)(a) of this act.

(5) This section expires December 1, ((~~2018~~)) 2028.

**Sec.**  RCW 82.04.2404 and 2017 c 135 s 10 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing or processing for hire semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) For the purposes of this section "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed; or

(b) The person is subject to a review under section 501(4)(a) of this act and such person does not meet performance criteria in section 501(4)(a) of this act.

(5) This section expires December 1, ((~~2018~~)) 2028.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in sections 505 through 508 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to encourage significant construction projects; retain, expand, and attract semiconductor business; and encourage and expand family-wage jobs. It is the legislature's intent to extend by ten years the preferential tax rates for sales and use of gases and chemicals used in the production of semiconductor materials, in order to encourage the growth and retention of the semiconductor business in Washington, thereby strengthening Washington's competitiveness with other states for manufacturing investment.

(4) If a review finds that the number of construction projects in the industry has increased, and that number of people employed by the solar silicon, silicon manufacturing, and semiconductor fabrication industry in Washington is the same or more than in 2015, and that at least sixty percent of employees earn sixty thousand dollars a year, then the legislature intends to extend the expiration date of the tax preferences.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the department of revenue's annual survey data.

**Sec.**  RCW 82.08.9651 and 2014 c 97 s 405 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2)(a) Except as provided under (b) of this subsection (2), a person claiming the exemption under this section must file a complete annual survey with the department under RCW 82.32.585.

(b) A person claiming the exemption under this section and who is required to file a complete annual report with the department under RCW 82.32.534 as a result of claiming the tax preference provided by RCW 82.04.2404 is not also required to file a complete annual survey under RCW 82.32.585.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed; or

(b) The person is subject to a review under section 501(4)(a) of this act and such person does not meet performance criteria in section 501(4)(a) of this act.

(5) This section expires December 1, ((~~2018~~)) 2028.

**Sec.**  RCW 82.08.9651 and 2017 c 135 s 23 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed; or

(b) The person is subject to a review under section 501(4)(a) of this act and such person does not meet performance criteria in section 501(4)(a) of this act.

(5) This section expires December 1, ((~~2018~~)) 2028.

**Sec.**  RCW 82.12.9651 and 2014 c 97 s 406 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2)(a) Except as provided under (b) of this subsection (2), a person claiming the exemption under this section must file a complete annual survey with the department under RCW 82.32.585.

(b) A person claiming the exemption under this section and who is required to file a complete annual report with the department under RCW 82.32.534 as a result of claiming the tax preference provided by RCW 82.04.2404 is not also required to file a complete annual survey under RCW 82.32.585.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed; or

(b) The person is subject to a review under section 501(4)(a) of this act and such person does not meet performance criteria in section 501(4)(a) of this act.

(5) This section expires December 1, ((~~2018~~)) 2028.

**Sec.**  RCW 82.12.9651 and 2017 c 135 s 31 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed; or

(b) The person is subject to a review under section 501(4)(a) of this act and such person does not meet performance criteria in section 501(4)(a) of this act.

(5) This section expires December 1, ((~~2018~~)) 2028.

**Sec.**  RCW 82.08.965 and 2010 c 114 s 123 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered in respect to the constructing of new buildings used for the manufacturing of semiconductor materials, to sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) To be eligible under this section the manufacturer or processor for hire must meet the following requirements for an eight-year period, such period beginning the day the new building commences commercial production, or a portion of tax otherwise due will be immediately due and payable pursuant to subsection (3) of this section:

(a) The manufacturer or processor for hire must maintain at least seventy-five percent of full employment at the new building for which the exemption under this section is claimed.

(b) Before commencing commercial production at a new facility the manufacturer or processor for hire must meet with the department to review projected employment levels in the new buildings. The department, using information provided by the taxpayer, must make a determination of the number of positions that would be filled at full employment. This number must be used throughout the eight-year period to determine whether any tax is to be repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation during which time employment at the new building at the same site is increased, the manufacturer or processor for hire must maintain seventy-five percent of full employment at the manufacturing site overall.

(d) No application is necessary for the tax exemption. The person is subject to all the requirements of chapter 82.32 RCW. A person claiming the exemption under this section must file a complete annual report with the department under RCW 82.32.534.

(3) If the employment requirement is not met for any one calendar year, one-eighth of the exempt sales and use taxes will be due and payable by April 1st of the following year. The department must assess interest to the date the tax was imposed, but not penalties, on the taxes for which the person is not eligible.

(4) The exemption applies to new buildings, or parts of buildings, that are used exclusively in the manufacturing of semiconductor materials, including the storage of raw materials and finished product.

(5) For the purposes of this section:

(a) "Commencement of commercial production" is deemed to have occurred when the equipment and process qualifications in the new building are completed and production for sale has begun((~~; and~~)).

(b) "Full employment" is the number of positions required for full capacity production at the new building, for positions such as line workers, engineers, and technicians.

(c) "Semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(6) No exemption may be taken after ((~~twelve years after~~)) the ((~~effective~~)) expiration date of this ((~~act~~)) section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(7) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.08.965 and 2017 c 135 s 22 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered in respect to the constructing of new buildings used for the manufacturing of semiconductor materials, to sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) To be eligible under this section the manufacturer or processor for hire must meet the following requirements for an eight-year period, such period beginning the day the new building commences commercial production, or a portion of tax otherwise due will be immediately due and payable pursuant to subsection (3) of this section:

(a) The manufacturer or processor for hire must maintain at least seventy-five percent of full employment at the new building for which the exemption under this section is claimed.

(b) Before commencing commercial production at a new facility the manufacturer or processor for hire must meet with the department to review projected employment levels in the new buildings. The department, using information provided by the taxpayer, must make a determination of the number of positions that would be filled at full employment. This number must be used throughout the eight-year period to determine whether any tax is to be repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation during which time employment at the new building at the same site is increased, the manufacturer or processor for hire must maintain seventy-five percent of full employment at the manufacturing site overall.

(d) No application is necessary for the tax exemption. The person is subject to all the requirements of chapter 82.32 RCW. A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) If the employment requirement is not met for any one calendar year, one-eighth of the exempt sales and use taxes will be due and payable by April 1st of the following year. The department must assess interest to the date the tax was imposed, but not penalties, on the taxes for which the person is not eligible.

(4) The exemption applies to new buildings, or parts of buildings, that are used exclusively in the manufacturing of semiconductor materials, including the storage of raw materials and finished product.

(5) For the purposes of this section:

(a) "Commencement of commercial production" is deemed to have occurred when the equipment and process qualifications in the new building are completed and production for sale has begun((~~; and~~)).

(b) "Full employment" is the number of positions required for full capacity production at the new building, for positions such as line workers, engineers, and technicians.

(c) "Semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(6) No exemption may be taken after ((~~twelve years after~~)) the ((~~effective~~)) expiration date of this ((~~act~~)) section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(7) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.12.965 and 2010 c 114 s 129 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of tangible personal property that will be incorporated as an ingredient or component of new buildings used for the manufacturing of semiconductor materials during the course of constructing such buildings or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The eligibility requirements, conditions, and definitions in RCW 82.08.965 apply to this section, including the filing of a complete annual report with the department under RCW 82.32.534.

(3) No exemption may be taken ((~~twelve years~~)) after the ((~~effective~~)) expiration date of this ((~~act~~)) section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(4) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.12.965 and 2017 c 135 s 30 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of tangible personal property that will be incorporated as an ingredient or component of new buildings used for the manufacturing of semiconductor materials during the course of constructing such buildings or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The eligibility requirements, conditions, and definitions in RCW 82.08.965 apply to this section, including the filing of a complete annual tax performance report with the department under RCW 82.32.534.

(3) No exemption may be taken ((~~twelve years~~)) after the ((~~effective~~)) expiration date of this ((~~act~~)) section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(4) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 84.36.645 and 2010 c 114 s 150 are each amended to read as follows:

(1) Machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 used in manufacturing semiconductor materials at a building exempt from sales and use tax and in compliance with the employment requirement under RCW 82.08.965 and 82.12.965 are exempt from property taxation. "Semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person seeking this exemption must make application to the county assessor, on forms prescribed by the department.

(3) A person claiming an exemption under this section must file a complete annual report with the department under RCW 82.32.534.

(4) This section is effective for taxes levied for collection one year after the effective date of ((~~this act~~)) section 150, chapter 114, Laws of 2010 and thereafter.

(5) This section expires ((~~December 31st of the year occurring twelve years after the effective date of this act, for taxes levied for collection in the following year~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 84.36.645 and 2017 c 135 s 45 are each amended to read as follows:

(1) Machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 used in manufacturing semiconductor materials at a building exempt from sales and use tax and in compliance with the employment requirement under RCW 82.08.965 and 82.12.965 are exempt from property taxation. "Semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person seeking this exemption must make application to the county assessor, on forms prescribed by the department.

(3) A person claiming an exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section is effective for taxes levied for collection one year after the effective date of ((~~this act~~)) section 150, chapter 114, Laws of 2010 and thereafter.

(5) This section expires ((~~December 31st of the year occurring twelve years after the effective date of this act, for taxes levied for collection in the following year~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.448 and 2010 c 114 s 117 are each amended to read as follows:

(1) Subject to the limits and provisions of this section, a credit is authorized against the tax otherwise due under RCW 82.04.240(2) for persons engaged in the business of manufacturing semiconductor materials. For the purposes of this section "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2)(a) The credit under this section equals three thousand dollars for each employment position used in manufacturing production that takes place in a new building exempt from sales and use tax under RCW 82.08.965 and 82.12.965. A credit is earned for the calendar year a person fills a position. Additionally a credit is earned for each year the position is maintained over the subsequent consecutive years, up to eight years. Those positions that are not filled for the entire year are eligible for fifty percent of the credit if filled less than six months, and the entire credit if filled more than six months.

(b) To qualify for the credit, the manufacturing activity of the person must be conducted at a new building that qualifies for the exemption from sales and use tax under RCW 82.08.965 and 82.12.965.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation, during which time employment at the new building at the same site is increased, the person is eligible for credit for employment at the existing building and new building, with the limitation that the combined eligible employment not exceed full employment at the new building. "Full employment" has the same meaning as in RCW 82.08.965. The credit may not be earned until the commencement of commercial production, as that term is used in RCW 82.08.965.

(3) No application is necessary for the tax credit. The person is subject to all of the requirements of chapter 82.32 RCW. In no case may a credit earned during one calendar year be carried over to be credited against taxes incurred in a subsequent calendar year. No refunds may be granted for credits under this section.

(4) If at any time the department finds that a person is not eligible for tax credit under this section, the amount of taxes for which a credit has been claimed is immediately due. The department must assess interest, but not penalties, on the taxes for which the person is not eligible. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, is retroactive to the date the tax credit was taken, and accrues until the taxes for which a credit has been used are repaid.

(5) A person claiming the credit under this section must file a complete annual report with the department under RCW 82.32.534.

(6) Credits may be claimed after ((~~twelve years after the effective~~)) the expiration date of this ((~~act~~)) section, for those buildings at which commercial production began before ((~~twelve years after the effective date of this act~~)) the expiration date of this section, subject to all of the eligibility criteria and limitations of this section.

(7) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.448 and 2017 c 135 s 17 are each amended to read as follows:

(1) Subject to the limits and provisions of this section, a credit is authorized against the tax otherwise due under RCW 82.04.240(2) for persons engaged in the business of manufacturing semiconductor materials. For the purposes of this section "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2)(a) The credit under this section equals three thousand dollars for each employment position used in manufacturing production that takes place in a new building exempt from sales and use tax under RCW 82.08.965 and 82.12.965. A credit is earned for the calendar year a person fills a position. Additionally a credit is earned for each year the position is maintained over the subsequent consecutive years, up to eight years. Those positions that are not filled for the entire year are eligible for fifty percent of the credit if filled less than six months, and the entire credit if filled more than six months.

(b) To qualify for the credit, the manufacturing activity of the person must be conducted at a new building that qualifies for the exemption from sales and use tax under RCW 82.08.965 and 82.12.965.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation, during which time employment at the new building at the same site is increased, the person is eligible for credit for employment at the existing building and new building, with the limitation that the combined eligible employment not exceed full employment at the new building. "Full employment" has the same meaning as in RCW 82.08.965. The credit may not be earned until the commencement of commercial production, as that term is used in RCW 82.08.965.

(3) No application is necessary for the tax credit. The person is subject to all of the requirements of chapter 82.32 RCW. In no case may a credit earned during one calendar year be carried over to be credited against taxes incurred in a subsequent calendar year. No refunds may be granted for credits under this section.

(4) If at any time the department finds that a person is not eligible for tax credit under this section, the amount of taxes for which a credit has been claimed is immediately due. The department must assess interest, but not penalties, on the taxes for which the person is not eligible. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, is retroactive to the date the tax credit was taken, and accrues until the taxes for which a credit has been used are repaid.

(5) A person claiming the credit under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) Credits may be claimed after ((~~twelve years after the effective~~)) the expiration date of this ((~~act~~)) section, for those buildings at which commercial production began before ((~~twelve years after the effective date of this act~~)) the expiration date of this section, subject to all of the eligibility criteria and limitations of this section.

(7) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.240 and 2010 c 114 s 104 are each amended to read as follows:

(1) Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of 0.484 percent.

(2)(a) Upon every person engaging within this state in the business of manufacturing semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent. For the purposes of this subsection "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(b) A person reporting under the tax rate provided in this subsection (2) must file a complete annual report with the department under RCW 82.32.534.

((~~(c) This subsection (2) expires twelve years after the effective date of this act.~~))

(3) The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

(4) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.240 and 2017 c 135 s 9 are each amended to read as follows:

(1) Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of 0.484 percent.

(2)(a) Upon every person engaging within this state in the business of manufacturing semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent. For the purposes of this subsection "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(b) A person reporting under the tax rate provided in this subsection (2) must file a complete annual tax performance report with the department under RCW 82.32.534.

((~~(c) This subsection (2) expires twelve years after the effective date of this act.~~))

(3) The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

(4) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.08.970 and 2010 c 114 s 125 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person claiming the exemption under this section must file a complete annual report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.08.970 and 2017 c 135 s 24 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.12.970 and 2010 c 114 s 131 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person claiming the exemption under this section must file a complete annual report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.12.970 and 2017 c 135 s 32 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires ((~~twelve years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.426 and 2010 c 114 s 110 are each amended to read as follows:

(1) The tax imposed by RCW 82.04.240(2) does not apply to any person in respect to the manufacturing of semiconductor microchips.

(2) For the purposes of this section:

(a) "Manufacturing semiconductor microchips" means taking raw polished semiconductor wafers and embedding integrated circuits on the wafers using processes such as masking, etching, and diffusion; and

(b) "Integrated circuit" means a set of microminiaturized, electronic circuits.

(3) A person reporting under the tax rate provided in this section must file a complete annual report with the department under RCW 82.32.534.

(4) This section expires ((~~nine years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.426 and 2017 c 135 s 13 are each amended to read as follows:

(1) The tax imposed by RCW 82.04.240(2) does not apply to any person in respect to the manufacturing of semiconductor microchips.

(2) For the purposes of this section:

(a) "Manufacturing semiconductor microchips" means taking raw polished semiconductor wafers and embedding integrated circuits on the wafers using processes such as masking, etching, and diffusion; and

(b) "Integrated circuit" means a set of microminiaturized, electronic circuits.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires ((~~nine years after the effective date of this act~~)) January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.32.790 and 2017 c 323 s 509 are each amended to read as follows:

(1)(a) Sections 509, 511, 513, 515, 517, 519, 521, and 523, chapter . . . , Laws of 2017 3rd sp. sess. (sections 509, 511, 513, 515, 517, 519, 521, and 523 of this act), sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, 2024.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, if the contract is signed and received by January 1, 2024, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not authorized to make a second determination regarding the effective date of the sections referenced in subsection (1) of this section.

(4)(a) This section expires January 1, 2024, if the contingency in subsection (2) of this section does not occur by January 1, 2024, as determined by the department.

(b) The department must provide written notice of the expiration date of this section and the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

**Sec.**  RCW 82.32.790 and 2017 c 323 s 509 and 2017 c 135 s 47 are each reenacted and amended to read as follows:

(1)(a) Sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter . . ., Laws of 2017 3rd sp. sess. (sections 510, 512, 514, 516, 518, 520, 522, and 524 of this act), sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, 2024.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, if the contract is signed and received by January 1, 2024, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not authorized to make a second determination regarding the effective date of the sections referenced in subsection (1) of this section.

(4)(a) This section expires January 1, 2024, if the contingency in subsection (2) of this section does not occur by January 1, 2024, as determined by the department.

(b) The department must provide written notice of the expiration date of this section and the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

***\*Part VI***

***Providing Sales and Use Tax Exemptions to Encourage Coal-Fired Electric***

***Generation Plants to Convert to Natural Gas-Fired Plants or Biomass***

***Energy Facilities***

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preference contained in sections 602 and 603, chapter . . ., Laws of 2017 3rd sp. sess. (sections 602 and 603 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to create or retain jobs, as indicated in RCW 82.32.808(2)(c).

(2) It is the legislature's specific public policy objective to retain jobs at existing coal-fired electric generation facilities by providing a tax exemption to allow these facilities to convert into natural gas-fired generation plants or biomass energy facilities rather than shut down entirely. It is the legislature's intent to provide a tax exemption for the conversion of a coal-fired electric generation facility into a natural gas-fired generation plant or biomass energy facility, in order to reduce the costs recently imposed by the legislature on companies that operate coal-fired electric generation facilities, thereby increasing the ability of these companies to continue their operations in Washington state, thereby retaining jobs that otherwise would be lost if a coal-fired electric generation facility were to shut down.

(3) This tax preference is created to provide an opportunity for coal-fired electric generation facilities to convert into natural gas-fired generation plants or biomass energy facilities. This tax preference is meant to expire and, therefore, the joint legislative audit and review committee is exempt from reviewing this tax preference as required in chapter 43.136 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the requirements in subsection (2) of this section, a taxpayer is eligible for an exemption from the tax imposed by RCW 82.08.020 on the sale of or charge made for:

(a) Labor and services rendered in respect to the constructing of new structures, and expansion or renovation of existing structures, for the purpose of converting a coal-fired electric generation facility into a natural gas-fired plant or biomass energy facility;

(b) Materials that will be incorporated as an ingredient or component of new or existing structures during the course of such constructing, expanding, or renovating; or

(c) Machinery and equipment that is required to convert a coal-fired electric generation facility into a natural gas-fired plant or biomass energy facility, including labor and services rendered in respect to installing such machinery and equipment.

(2)(a) The exemption in this section is in the form of a remittance. A purchaser claiming an exemption from the tax in the form of a remittance under this section must pay all applicable state and local sales taxes imposed under RCW 82.08.020 and chapter 82.14 RCW on all purchases qualifying for the exemption. After the conversion of a coal-fired electric generation facility into a natural gas-fired plant or biomass energy facility is operationally complete, but not earlier than April 1, 2021, the purchaser may then apply to the department for a remittance of one hundred percent of the state and local sales taxes paid under RCW 82.08.020 and chapter 82.14 RCW for purchases qualifying under subsection (1) of this section. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and construction contracts.

(b) The department may not accept any application for a remittance that it does not receive by the later of July 1, 2021, or within one year after the department determines that the conversion of a coal-fired electric generation facility into a natural gas-fired plant or biomass energy facility is operationally complete.

(c) The department must determine eligibility under this section based on information provided by the purchaser, which is subject to audit verification by the department. The department must remit exempted amounts to qualifying purchasers who submitted timely applications during the previous calendar quarter. No remittances may be paid before July 1, 2021.

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

(a) "Biomass energy" means energy derived from solid organic fuels from wood or forest or field residues.

(b)(i) "Machinery and equipment" means industrial fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using natural gas or biomass, including repair parts and replacement parts.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(c) "Operationally complete" means constructed or improved to the point of being functionally capable of generating electricity using natural gas or biomass.

(4) This section expires July 1, 2027.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) Subject to the requirements in subsection (2) of this section, a taxpayer is eligible for an exemption from the tax imposed by RCW 82.12.020 on the use of:

(a) Materials that will be incorporated as an ingredient or component of new or existing structures during the course of the constructing of new structures, or expansion or renovation of existing structures, for the purpose of converting a coal-fired electric generation facility into a natural gas-fired plant or biomass energy facility; and

(b) Machinery and equipment that is required to convert a coal-fired electric generation facility into a natural gas-fired plant or biomass energy facility, including labor and services rendered in respect to installing such machinery and equipment.

(2)(a) A taxpayer is exempt from the tax imposed by RCW 82.12.020 on the use of materials, machinery and equipment, or installation labor, if the taxpayer received a remittance under section 602 of this act with respect to the purchase of the materials, machinery and equipment, or installation labor.

(b) With respect to materials, machinery and equipment, or installation labor qualifying for the exemption in this section and acquired by the taxpayer without the payment of the sales tax imposed by RCW 82.08.020, the exemption in this section is in the form of a remittance of the state and local use taxes paid under RCW 82.12.020 and chapter 82.14 RCW. All of the provisions applicable to remittances under section 602 of this act apply to remittances under this section.

(3) The exemption in this section does not apply to the use of materials, machinery and equipment, and installation labor for machinery and equipment, when first use within this state of such materials, machinery and equipment, and installation labor occurred after June 30, 2027.

(4) The definitions in section 602 of this act apply to this section.

(5) This section expires July 1, 2027.

**Sec.**  RCW 82.14.050 and 2016 c 191 s 4 are each amended to read as follows:

(1) The counties, cities, and transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, regional transportation investment districts, and transportation benefit districts under chapter 36.73 RCW must contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which must deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter that is collected by the department of revenue must be deposited by the state department of revenue in the local sales and use tax account hereby created in the state treasury. Beginning January 1, 2013, the department of revenue must make deposits in the local sales and use tax account on a monthly basis on the last business day of the month in which distributions required in (a) of this subsection are due. Moneys in the local sales and use tax account may be withdrawn only for:

(a) Distribution to counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts imposing a sales and use tax; and

(b) Making refunds of taxes imposed under the authority of this chapter and RCW 81.104.170 and exempted under RCW 82.08.962, 82.12.962, 82.08.02565, 82.12.02565, 82.08.025661, ((~~or~~)) 82.12.025661, section 602 of this act, or section 603 of this act.

(2) All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, insofar as they are applicable to state sales and use taxes, are applicable to taxes imposed pursuant to this chapter.

(3) Counties, cities, transportation authorities, public facilities districts, and regional transportation investment districts may not conduct independent sales or use tax audits of sellers registered under the streamlined sales tax agreement.

(4) Except as provided in RCW 43.08.190 and subsection (5) of this section, all earnings of investments of balances in the local sales and use tax account must be credited to the local sales and use tax account and distributed to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts monthly.

(5) Beginning January 1, 2013, the state treasurer must determine the amount of earnings on investments that would have been credited to the local sales and use tax account if the collections had been deposited in the account over the prior month. When distributions are made under subsection (1)(a) of this section, the state treasurer must transfer this amount from the state general fund to the local sales and use tax account and must distribute such sums to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts.

**Sec.**  RCW 82.14.060 and 2016 c 191 s 5 are each amended to read as follows:

(1)(a) Monthly, the state treasurer must distribute from the local sales and use tax account to the counties, cities, transportation authorities, public facilities districts, and transportation benefit districts the amount of tax collected on behalf of each taxing authority, less:

(i) The deduction provided for in RCW 82.14.050; and

(ii) The amount of any refunds of local sales and use taxes exempted under RCW 82.08.962, 82.12.962, 82.08.02565, 82.12.02565, 82.08.025661, ((~~or~~)) 82.12.025661, section 602 of this act, or section 603 of this act, which must be made without appropriation.

(b) The state treasurer must make the distribution under this section without appropriation.

(2) In the event that any ordinance or resolution imposes a sales and use tax at a rate in excess of the applicable limits contained herein, such ordinance or resolution may not be considered void in toto, but only with respect to that portion of the rate which is in excess of the applicable limits contained herein.

NEW SECTION. **Sec.**  A new section is added to chapter 82.32 RCW to read as follows:

(1) Beginning one year after the natural gas-fired plant or biomass energy facility is operationally complete, a person must repay all sales and use taxes remitted to the person under sections 602 and 603 of this act if the number of employment positions, reported to the employment security department, at the natural gas-fired plant or biomass energy facility decreases by twenty-five percent from the previous year's employment level.

(2) If sales and use taxes must be repaid under subsection (1) of this section, the department must declare the amounts to be immediately due and payable. The department must assess interest, but not penalties, on the amounts due under this subsection. The department must assess interest at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and such interest accrues until the tax preference amounts are repaid.

(3) If sales and use taxes must be repaid under subsection (1) of this section, the person may not continue to claim the sales and use tax exemptions under sections 602 and 603 of this act.

(4) This section does not apply to any changes in the number of employment positions at a natural gas-fired plant or biomass energy facility that occur on or after January 1, 2031.

**Part VII**

**Tax Relief for Silicon Smelters**

NEW SECTION. **Sec.**  (1) The legislature finds that an opportunity exists through a smelting process to produce silicon metal, which can be used in the production of photovoltaic cells for solar energy systems. The legislature further finds that energy is one of the largest costs for the smelting process and therefore ensuring the lowest possible energy cost is one of the key drivers of business location decisions. The legislature further finds that the silicon smelting process creates an opportunity to reduce carbon dioxide emissions used in the manufacturing of materials for solar energy systems. The legislature further finds that if the silicon smelting process occurs in Washington, the carbon footprint of the end product solar energy systems is likely to be less than if the silicon smelting occurred elsewhere. It is the legislature's specific public policy objective to promote the manufacturing of silicon for use in production of photovoltaic cells for solar energy systems. The legislature intends to provide a public utility tax credit, a business and occupation tax credit, and an exemption from the brokered natural gas use tax for silicon smelters thereby promoting the manufacture of silicon for solar energy systems, thereby reducing the cost of energy in the smelting process, and thereby stimulating economic growth and job creation in Washington's rural counties, as defined in RCW 82.14.370(5).

(2)(a) This section is the tax preference performance statement for the tax preferences contained in this part. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preferences in sections 702 through 707, chapter . . ., Laws of 2017 3rd sp. sess. (sections 702 through 707 of this act) as ones intended to create jobs, as indicated in RCW 82.32.808(2)(c) and to provide tax relief for certain businesses or individuals as indicated in RCW 82.32.808(2)(e).

(c) To measure the effectiveness of this part in achieving the specific public policy objective described in (b) of this subsection, the joint legislative audit and review committee must, at minimum, evaluate the following:

(i) The number of businesses who are claiming the tax preferences in sections 702 through 707, chapter . . ., Laws of 2017 3rd sp. sess. (sections 702 through 707 of this act), and the total relief provided to them, as reported to the department of revenue on an annual basis;

(ii) The volume of solar grade silicon made in Washington compared to years prior to the effective date of this section;

(iii) Specifically assess the number of employment positions for each silicon smelter claiming or receiving the benefit of the preferences in sections 702 through 707, chapter . . ., Laws of 2017 3rd sp. sess. (sections 702 through 707 of this act), using data provided by the department of revenue;

(iv) Estimate the cost per job based on the amount of tax preferences taken by each silicon smelter;

(v) Estimate the number of solar energy systems, and the power output of those systems, that were likely produced using Washington state solar grade silicon based on the volume of silicon smelted in Washington at each silicon smelter utilizing the incentive; and

(vi) Determine, utilizing the finalized 2015 county wage data from the census of employment and wages as reported by the employment security department:

(A) The number of jobs at each eligible silicon smelter paying above the county average annual wage in the county in which the facility is located; and

(B) The proportion of jobs paying above the county average annual wage represented by the jobs provided by each eligible silicon smelter utilizing the incentive.

(d) In addition to the data sources described under this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (c) of this subsection.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to a silicon smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the silicon smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to a silicon smelter multiplied by the corresponding rate in effect at the time of the sale for the public utility tax under RCW 82.16.020.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process.

(4) The department must provide a separate tax reporting line for reporting credits under this section by sellers of electricity, natural gas, or manufactured gas.

(5) For purposes of the annual survey required by RCW 82.32.585:

(a) The silicon smelter receiving the benefit of the credit under this section is deemed to be the taxpayer claiming the credit and is required to file the annual survey; and

(b) The person selling the electricity, natural gas, or manufactured gas to the silicon smelter is not required to file the annual survey.

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

(a) "Silicon smelter" means a manufacturing facility that processes silica into solar grade silicon.

(b) "Solar grade silicon" means high-purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors.

**Sec.**  RCW 82.16.--- and 2017 c ... s 702 (section 702 of this act) are each amended to read as follows:

(1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to a silicon smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the silicon smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to a silicon smelter multiplied by the corresponding rate in effect at the time of the sale for the public utility tax under RCW 82.16.020.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process.

(4) The department must provide a separate tax reporting line for reporting credits under this section by sellers of electricity, natural gas, or manufactured gas.

(5) For purposes of the annual ((~~survey~~)) tax performance report required by RCW ((~~82.32.585~~)) 82.32.534:

(a) The silicon smelter receiving the benefit of the credit under this section is deemed to be the taxpayer claiming the credit and is required to file the annual ((~~survey~~)) tax performance report; and

(b) The person selling the electricity, natural gas, or manufactured gas to the silicon smelter is not required to file the annual ((~~survey~~)) tax performance report.

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

(a) "Silicon smelter" means a manufacturing facility that processes silica into solar grade silicon.

(b) "Solar grade silicon" means high-purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors.

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

(1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to a silicon smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the silicon smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to a silicon smelter multiplied by the corresponding rate in effect at the time of the sale under this chapter.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process.

(4) The department must provide a separate tax reporting line for reporting credits under this section by sellers of electricity, natural gas, or manufactured gas.

(5) For purposes of the annual survey required by RCW 82.32.585:

(a) The silicon smelter receiving the benefit of the credit under this section is deemed to be the taxpayer claiming the credit and is required to file the annual survey; and

(b) The person selling the electricity, natural gas, or manufactured gas to the silicon smelter is not required to file the annual survey.

(6) For the purposes of this section, "silicon smelter" has the same meaning as provided in section 702 of this act.

**Sec.**  RCW 82.04.--- and 2017 c ... s 704 (section 704 of this act) are each amended to read as follows:

(1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to a silicon smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the silicon smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to a silicon smelter multiplied by the corresponding rate in effect at the time of the sale under this chapter.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process.

(4) The department must provide a separate tax reporting line for reporting credits under this section by sellers of electricity, natural gas, or manufactured gas.

(5) For purposes of the annual ((~~survey~~)) tax performance report required by RCW ((~~82.32.585~~)) 82.32.534:

(a) The silicon smelter receiving the benefit of the credit under this section is deemed to be the taxpayer claiming the credit and is required to file the annual ((~~survey~~)) tax performance report; and

(b) The person selling the electricity, natural gas, or manufactured gas to the silicon smelter is not required to file the annual ((~~survey~~)) tax performance report.

(6) For the purposes of this section, "silicon smelter" has the same meaning as provided in section ((~~602~~)) 703 of this act.

**Sec.**  RCW 82.12.022 and 2015 3rd sp.s. c 6 s 506 are each amended to read as follows:

(1) A use tax is levied on every person in this state for the privilege of using natural gas or manufactured gas, including compressed natural gas and liquefied natural gas, within this state as a consumer.

(2) The tax must be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the public utility tax on gas distribution businesses under RCW 82.16.020. The "value of the article used" does not include any amounts that are paid for the hire or use of a gas distribution business as defined in RCW 82.16.010(2) in transporting the gas subject to tax under this subsection if those amounts are subject to tax under that chapter.

(3) The tax levied in this section does not apply to the use of natural or manufactured gas delivered to the consumer by other means than through a pipeline.

(4) The tax levied in this section does not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 82.16.020 with respect to the gas for which exemption is sought under this subsection.

(5)(a) The tax levied in this section does not apply to the use of natural or manufactured gas by an aluminum smelter as that term is defined in RCW 82.04.217 before January 1, 2027.

(b) A person claiming the exemption provided in this subsection (5) must file a complete annual report with the department under RCW 82.32.534.

(6) The tax imposed by this section does not apply to the use of natural gas, compressed natural gas, or liquefied natural gas, if the consumer uses the gas for transportation fuel as defined in RCW 82.16.310.

(7) The tax levied in this section does not apply to the use of natural or manufactured gas by a silicon smelter as that term is defined in section 702 of this act.

(8) There is a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by another state with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

((~~(8)~~)) (9) The use tax imposed in this section must be paid by the consumer to the department.

((~~(9)~~)) (10) There is imposed a reporting requirement on the person who delivered the gas to the consumer to make a quarterly report to the department. Such report must contain the volume of gas delivered, name of the consumer to whom delivered, and such other information as the department may require by rule.

((~~(10)~~)) (11) The department may adopt rules under chapter 34.05 RCW for the administration and enforcement of sections 1 through 6, chapter 384, Laws of 1989.

**Sec.**  RCW 82.12.022 and 2017 c 135 s 27 are each amended to read as follows:

(1) A use tax is levied on every person in this state for the privilege of using natural gas or manufactured gas, including compressed natural gas and liquefied natural gas, within this state as a consumer.

(2) The tax must be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the public utility tax on gas distribution businesses under RCW 82.16.020. The "value of the article used" does not include any amounts that are paid for the hire or use of a gas distribution business as defined in RCW 82.16.010(2) in transporting the gas subject to tax under this subsection if those amounts are subject to tax under that chapter.

(3) The tax levied in this section does not apply to the use of natural or manufactured gas delivered to the consumer by other means than through a pipeline.

(4) The tax levied in this section does not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 82.16.020 with respect to the gas for which exemption is sought under this subsection.

(5)(a) The tax levied in this section does not apply to the use of natural or manufactured gas by an aluminum smelter as that term is defined in RCW 82.04.217 before January 1, 2027.

(b) A person claiming the exemption provided in this subsection (5) must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) The tax imposed by this section does not apply to the use of natural gas, compressed natural gas, or liquefied natural gas, if the consumer uses the gas for transportation fuel as defined in RCW 82.16.310.

(7) The tax levied in this section does not apply to the use of natural or manufactured gas by a silicon smelter as that term is defined in section 703 of this act.

(8) There is a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by another state with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

((~~(8)~~)) (9) The use tax imposed in this section must be paid by the consumer to the department.

((~~(9)~~)) (10) There is imposed a reporting requirement on the person who delivered the gas to the consumer to make a quarterly report to the department. Such report must contain the volume of gas delivered, name of the consumer to whom delivered, and such other information as the department may require by rule.

((~~(10)~~)) (11) The department may adopt rules under chapter 34.05 RCW for the administration and enforcement of sections 1 through 6, chapter 384, Laws of 1989.

NEW SECTION. **Sec.**  A new section is added to chapter 82.32 RCW to read as follows:

(1)(a) A silicon smelter operated by a person required to submit an annual survey or report under sections 702 through 707 of this act must repay an amount equal to the entire economic benefit accruing to the person for the previous two calendar years due to the tax preferences under sections 702 through 707 of this act if:

(i) The average number of employment positions at a silicon smelter operated by the person is less than one hundred employment positions, as reported to the employment security department for the previous two calendar years; and

(ii) The average annual wage for all employment positions is equal to or less than the average annual wage for the county in which the silicon smelter operation is located for the previous two calendar years. The department must use the finalized 2015 county wage data from the census of employment and wages as reported by the employment security department.

(b) The department must make the determinations under (a)(i) and (ii) of this subsection (1) by August 31, 2023.

(2) If any tax preference amounts must be repaid under subsection (1) of this section, the department must declare the tax preference amounts to be immediately due and payable. The department must assess interest, but not penalties, on the amounts due under this subsection. The department must assess interest at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and such interest accrues until the tax preference amounts are repaid.

(3) If any tax preference amounts must be repaid under subsection (1) of this section, the person may not continue to benefit from the tax preferences under sections 702 through 707 of this act.

**Part VIII**

**Invest in Washington Program**

**Sec.**  RCW 82.85.010 and 2015 3rd sp.s. c 6 s 401 are each amended to read as follows:

(1) Businesses that invest capital create jobs and generate economic activity that supports a healthy Washington economy. The legislature finds that these investments result in future revenues that support schools and our communities. Therefore, the legislature finds that a pilot program must be conducted to evaluate the effectiveness of a program that invests business taxes from new investments into workforce training programs that support manufacturing businesses in the state of Washington thereby creating jobs and capital investments in the state for the benefit of its citizens.

(2)(a) This subsection is the tax preference performance statement for the sales and use tax deferral provided in RCW 82.85.040 on expenditures made to build or expand qualified investment projects and purchases of machinery and equipment. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to create or retain jobs and to provide funding to support job readiness training, professional development, or apprenticeship programs in manufacturing or production occupations, as indicated in RCW 82.32.808(2) (c) and (f).

(c) It is the legislature's specific public policy objective to provide a pilot program that would provide a sales tax deferral on the construction and expenditure costs of up to ((~~five~~)) two new manufacturing facilities per calendar year, ((~~two~~)) one of which must be located in eastern Washington and one of which must be located in western Washington. When deferred taxes are repaid, the deferred taxes are reinvested to support job readiness training, professional development, or apprenticeship programs in manufacturing or production occupations.

(d) To measure the effectiveness of the deferral provided in this part in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee should refer to information available from the employment security department and department of revenue. If a review finds that each eligible investment project generated at least twenty full-time jobs and increased training opportunities for manufacturing and production jobs, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference. For purposes of this subsection (2)(d), ((~~[the term]~~)) the term full-time jobs ((~~includes [include]~~)) include both temporary construction jobs and permanent full-time employment positions created at the eligible investment project within one year of the date that the facility became operationally complete as determined by the department of revenue.

(3) This section expires January 1, 2026.

**Sec.**  RCW 82.85.020 and 2015 3rd sp.s. c 6 s 402 are each amended to read as follows:

(1) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

((~~(1)~~)) (a) "Applicant" means a person applying for a tax deferral under this chapter.

((~~(2)~~)) (b) "Eligible investment project" means an investment project for qualified buildings and machinery and equipment on ((~~five~~)) two new, renovated, or expanded manufacturing operations per calendar year, ((~~at least two~~)) one of which must be located east of the crest of the Cascade mountains and one of which must be located west of the crest of the Cascade mountains. The deferral provided in this section only applies to the state and local sales and use taxes due on the first ten million dollars in costs for qualified buildings and machinery and equipment.

((~~(3)~~)) (c) "Initiation of construction" has the same meaning as in RCW 82.63.010.

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

((~~(5)~~)) (e) "Manufacturing" has the same meaning as provided in RCW 82.04.120.

((~~(6)~~)) (f) "Person" has the same meaning as provided in RCW 82.04.030.

((~~(7)~~)) (g) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity, used for manufacturing, including plant offices and warehouses or other buildings for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing. If a qualified building is used partly for manufacturing and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

((~~(8)~~)) (h) "Qualified machinery and equipment" means all new industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control, monitor, or operate the machinery.

((~~(9)~~)) (i) "Recipient" means a person receiving a tax deferral under this chapter.

(2) This section expires January 1, 2026.

**Sec.**  RCW 82.85.040 and 2015 3rd sp.s. c 6 s 404 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application must be made to the department in a form and manner prescribed by the department. The deferrals are available on a first-in-time basis. The application must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department must rule on the application within sixty days.

(2) The department may not approve applications for more than ((~~five~~)) two eligible investment projects per calendar year.

(3) This section expires January 1, 2026.

**Part IX**

**Extending the Sales and Use Tax Deferral for Historical Auto Museums**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 902, chapter . . ., Laws of 2017 3rd sp. sess. (section 902 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals and to accomplish a general purpose as indicated in RCW 82.32.808(2) (e) and (f).

(3) It is the legislature's specific public policy objective to increase the fiscal stability of historic automobile museums in Washington state and thereby, strengthen the economic vitality of the communities in which the museums are located.

(4) To measure the effectiveness of the tax preference in section 902, chapter . . ., Laws of 2017 3rd sp. sess. (section 902 of this act) in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must evaluate this tax preference. In evaluating the tax preference, the joint legislative audit and review committee may refer to data provided to the department of revenue.

**Sec.**  RCW 82.32.580 and 2005 c 514 s 701 are each amended to read as follows:

(1) The governing board of a nonprofit organization, corporation, or association may apply for deferral of taxes on an eligible project. Application ((~~shall~~)) must be made to the department in a form and manner prescribed by the department. The application ((~~shall~~)) must contain information regarding the location of the project, estimated or actual costs of the project, time schedules for completion and operation of the project, and other information required by the department. The department ((~~shall~~)) must rule on the application within sixty days. All applications for the tax deferral under this section must be received no later than December 31, 2008.

(2) The department ((~~shall~~)) must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible project.

(3) The nonprofit organization, corporation, or association ((~~shall~~)) must begin paying the deferred taxes in the ((~~fifth~~)) tenth year after the date certified by the department as the date on which the eligible project is operationally complete. The first payment is due on December 31st of the ((~~fifth~~)) tenth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment ((~~shall~~)) must equal ten percent of the deferred tax.

(4) The department may authorize an accelerated repayment schedule upon request of the nonprofit organization, corporation, or association.

(5) Except as provided in subsection (6) of this section, interest ((~~shall~~)) may not be charged on any taxes deferred under this section for the period of deferral. The debt for deferred taxes is not extinguished by insolvency or other failure of the nonprofit organization, corporation, or association.

(6) If the project is not operationally complete within five calendar years from issuance of the tax deferral or if at any time the department finds that the project is not eligible for tax deferral under this section, the amount of deferred taxes outstanding for the project ((~~shall be~~)) is immediately due and payable. If deferred taxes must be repaid under this subsection, the department ((~~shall~~)) must assess interest, but not penalties, on amounts due under this subsection. Interest ((~~shall~~)) must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date of deferral, and ((~~shall~~)) accrues until the deferred taxes due are repaid.

(7) Applications and any other information received by the department of revenue under this section are not confidential under RCW 82.32.330. This chapter applies to the administration of this section.

(8) This section applies to taxable eligible project activity that occurs on or after July 1, 2007.

(9) ((~~The following definitions apply to this section:~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Eligible project" means a project that is used primarily for a historic automobile museum.

(b) "Historic automobile museum" means a facility owned and operated by a nonprofit organization, corporation, or association that is used to maintain and exhibit to the public a collection of at least five hundred motor vehicles.

(c) "Nonprofit organization, corporation, or association" means an organization, corporation, or association exempt from tax under section 501(c) (3), (4), or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c) (3), (4), or (10)).

(d) "Project" means the construction of new structures, the acquisition and installation of fixtures that are permanently affixed to and become a physical part of those structures, and site preparation. For purposes of this subsection, structures do not include parking facilities used for motor vehicles that are not on display or part of the museum collection.

(e) "Site preparation" includes soil testing, site clearing and grading, demolition, or any other related activities that are initiated before construction. Site preparation does not include landscaping services or landscaping materials.

**Part X**

**Concerning Removal of Land from Current Use Due to Natural Disaster**

**Sec.**  RCW 84.34.108 and 2017 c 323 s 506 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification must be made each year upon the assessment and tax rolls and the land must be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner or transfer by a transfer on death deed does not, by itself, result in removal of classification. The notice of continuance must be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes, applicable interest, and penalty calculated pursuant to subsection (4) of this section become due and payable by the seller or transferor at time of sale. The auditor may not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax, applicable interest, and penalty has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d)(i) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

(ii) The granting authority, upon request of an assessor, must provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance must be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after the removal of all or a portion of the land from current use classification under subsection (1) of this section, the assessor must notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038. The removal notice must explain the steps needed to appeal the removal decision, including when a notice of appeal must be filed, where the forms may be obtained, and how to contact the county board of equalization.

(4) Unless the removal is reversed on appeal, the assessor must revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification must be listed and taxes must be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty must be imposed, which are due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax, applicable interest, and penalty. As soon as possible, the assessor must compute the amount of additional tax, applicable interest, and penalty and the treasurer must mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty must be determined as follows:

(a) The amount of additional tax is equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timberland" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;

(b) The amount of applicable interest is equal to the interest upon the amounts of the additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter;

(c) The amount of the penalty is as provided in RCW 84.34.080. The penalty may not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty become a lien on the land. The lien attaches at the time the land is removed from classification under this chapter and has priority to and must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. This lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any additional tax unpaid on the due date is delinquent as of the due date. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section may not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, wildfire, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section must be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(f);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a conservation easement of private forestlands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forestland, designated as forestland under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k); or

(l)(i) The discovery that the land was classified under this chapter in error through no fault of the owner. For purposes of this subsection (6)(l), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of classification under this chapter or the failure of the assessor to remove the land from classification under this chapter.

(ii) For purposes of this subsection (6), the discovery that land was classified under this chapter in error through no fault of the owner is not the sole reason for removal of classification pursuant to subsection (1) of this section if an independent basis for removal exists. Examples of an independent basis for removal include the owner changing the use of the land or failing to meet any applicable income criteria required for classification under this chapter.

**Sec.**  RCW 84.33.140 and 2014 c 137 s 3, 2014 c 97 s 309, and 2014 c 58 s 27 are each reenacted and amended to read as follows:

(1) When land has been designated as forestland under RCW 84.33.130, a notation of the designation must be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land must, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor must list each parcel of designated forestland at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor must compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forestland are as follows:

|  |  |  |
| --- | --- | --- |
| LAND  GRADE | OPERABILITY  CLASS | VALUES  PER ACRE |
|  | 1 | $234 |
| 1 | 2 | 229 |
|  | 3 | 217 |
|  | 4 | 157 |
|  | 1 | 198 |
| 2 | 2 | 190 |
|  | 3 | 183 |
|  | 4 | 132 |
|  | 1 | 154 |
| 3 | 2 | 149 |
|  | 3 | 148 |
|  | 4 | 113 |
|  | 1 | 117 |
| 4 | 2 | 114 |
|  | 3 | 113 |
|  | 4 | 86 |
|  | 1 | 85 |
| 5 | 2 | 78 |
|  | 3 | 77 |
|  | 4 | 52 |
|  | 1 | 43 |
| 6 | 2 | 39 |
|  | 3 | 39 |
|  | 4 | 37 |
|  | 1 | 21 |
| 7 | 2 | 21 |
|  | 3 | 20 |
|  | 4 | 20 |
| 8 |  | 1 |

(3) On or before December 31, 2001, the department must adjust by rule under chapter 34.05 RCW, the forestland values contained in subsection (2) of this section in accordance with this subsection, and must certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department must:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forestland values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section must be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment must be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values must be successively one year more recent.

(5) Land graded, assessed, and valued as forestland must continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice of request to withdraw land classified under RCW 84.34.020(3) within two years before the date of the merger under RCW 84.34.400. Land previously classified under chapter 84.34 RCW will be removed under the provisions of this chapter when two assessment years have passed following receipt of the notice as described in RCW 84.34.070(1);

(b) Receipt of notice from the owner to remove the designation;

(c) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(d) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forestland designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner or transfer by a transfer on death deed, does not, by itself, result in removal of designation. The signed notice of continuance must be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance must be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section are due and payable by the seller or transferor at time of sale. The auditor may not accept an instrument of conveyance regarding designated forestland for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(e) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land may not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forestland by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient must annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land may not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forestland. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forestland from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor has the option of requiring an owner of forestland to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forestland is submitted;

(b) Designated forestland is sold or transferred and a notice of continuance, described in subsection (5)(d) of this section, is signed; or

(c) The assessor has reason to believe that forestland sized less than twenty acres is no longer primarily devoted to and used for growing and harvesting timber. The assessor may require a timber management plan to assist with determining continuing eligibility as designated forestland.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (d) of this section, the removal applies only to the land affected. If land is removed from designation because of subsection (5)(e) of this section, the removal applies only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forestland meets the definition of forestland contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forestland, the assessor must notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation must, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation must immediately be made upon the assessment and tax rolls. The assessor must revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation must be listed. Taxes based on the value of the land as forestland are assessed and payable up until the date of removal and taxes based on the true and fair value of the land are assessed and payable from the date of removal from designation.

(11) Except as provided otherwise in ((~~subsection (5)(d), (13), or (14) of~~)) this section, a compensating tax is imposed on land removed from designation as forestland. The compensating tax is due and payable to the treasurer thirty days after the owner is notified of the amount of this tax. As soon as possible after the land is removed from designation, the assessor must compute the amount of compensating tax, and the treasurer must mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax is equal to the difference between the amount of tax last levied on the land as designated forestland and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forestland, plus compensating taxes on the land at forestland values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, becomes a lien on the land, which attaches at the time the land is removed from designation as forestland and has priority and must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date will thereupon become delinquent. From the date of delinquency until paid, interest is charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section may not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forestland located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) a sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power based on official action taken by the entity and confirmed in writing;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW, or for acquisition and management as a community forest trust as defined in chapter 79.155 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section is imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a conservation easement of private forestlands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forestland, designated as forestland under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h); or

(i)(i) The discovery that the land was designated under this chapter in error through no fault of the owner. For purposes of this subsection (13)(i), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of designation under this chapter or the failure of the assessor to remove the land from designation under this chapter.

(ii) For purposes of this subsection (13), the discovery that land was designated under this chapter in error through no fault of the owner is not the sole reason for removal of designation under subsection (5) of this section if an independent basis for removal exists. An example of an independent basis for removal includes the land no longer being devoted to and used for growing and harvesting timber.

(14) In a county with a population of more than six hundred thousand inhabitants or in a county with a population of at least two hundred forty-five thousand inhabitants that borders Puget Sound as defined in RCW 90.71.010, the compensating tax specified in subsection (11) of this section may not be imposed if the removal of designation as forestland under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax is imposed upon the current owner.

(15) Compensating tax authorized in this section may not be imposed on land removed from designation as forestland solely as a result of a natural disaster such as a flood, windstorm, earthquake, wildfire, or other such calamity rather than by virtue of the act of the landowner changing the use of the property.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805 and 82.32.808 do not apply to this part.

**Part XI**

**Modifying Washington's Motion Picture and Film Industries Tax Credit**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in section 1102, chapter . . ., Laws of 2017 3rd sp. sess. (section 1102 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to increase the viability of the motion picture and film industry and associated creative industries in Washington state. It is the legislature's intent to increase the credit available to qualifying activities in order to attract additional motion picture and film projects, thereby increasing family-wage jobs.

(4) If a review finds that the jobs attributable to these projects increase by at least ten percent over the jobs in the state since 2016, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data provided to the department of revenue pursuant to RCW 82.04.4489(9) and the annual survey required under RCW 43.365.040.

**Sec.**  RCW 82.04.4489 and 2012 c 189 s 4 are each amended to read as follows:

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a person to a Washington motion picture competitiveness program.

(2) The person must make the contribution before claiming a credit authorized under this section. Credits earned under this section may be claimed against taxes due for the calendar year in which the contribution is made. The amount of credit claimed for a reporting period may not exceed the tax otherwise due under this chapter for that reporting period. No person may claim more than ((~~one million~~)) seven hundred fifty thousand dollars of credit in any calendar year, including credit carried over from a previous calendar year. No refunds may be granted for any unused credits.

(3) The maximum credit that may be earned for each calendar year under this section for a person is limited to the lesser of ((~~one million~~)) seven hundred fifty thousand dollars or an amount equal to one hundred percent of the contributions made by the person to a program during the calendar year.

(4) Except as provided under subsection (5) of this section, a tax credit claimed under this section may not be carried over to another year.

(5) Any amount of tax credit otherwise allowable under this section not claimed by the person in any calendar year may be carried over and claimed against the person's tax liability for the next succeeding calendar year. Any credit remaining unused in the next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year; and any credit not used in that second succeeding calendar year may be carried over and claimed against the person's tax liability for the third succeeding calendar year, but may not be carried over for any calendar year thereafter.

(6) Credits are available on a first in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during any calendar year to exceed three million five hundred thousand dollars. If this limitation is reached, the department must notify all Washington motion picture competitiveness programs that the annual statewide limit has been met. In addition, the department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide that the tax be paid within thirty days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(7) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(8) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(9) A Washington motion picture competitiveness program must provide to the department, upon request, such information needed to verify eligibility for credit under this section, including information regarding contributions received by the program.

(10) The department may not allow any credit under this section before July 1, 2006.

(11) For the purposes of this section, "Washington motion picture competitiveness program" or "program" means an organization established pursuant to chapter 43.365 RCW.

(12) No credit may be earned for contributions made on or after July 1, ((~~2017~~)) 2027.

**Sec.**  RCW 43.365.010 and 2012 c 189 s 1 are each amended to read as follows:

The ((~~following~~)) definitions in this section apply ((~~to~~)) throughout this chapter((~~,~~)) unless the context clearly requires otherwise.

(1) "Approved motion picture competitiveness program" means a nonprofit organization under the internal revenue code, section 501(c)(6), with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production and associated creative industries and assisting and providing services for attracting the film industry and associated creative industries, by recommending and awarding financial assistance for costs associated with motion pictures in the state of Washington.

(2) "Contribution" means cash contributions.

(3) "Costs" means actual expenses of production and postproduction expended in Washington state for the production of motion pictures, including but not limited to payments made for salaries, wages, and health insurance and retirement benefits, the rental costs of machinery and equipment and the purchase of services, food, property, lodging, and permits for work conducted in Washington state.

(4) "Department" means the department of commerce.

(5) "Funding assistance" means cash expenditures from an approved motion picture competitiveness program.

(6) "Motion picture" means a recorded audiovisual production intended for distribution to the public for exhibition in public and/or private settings by means of any and all delivery systems and/or delivery platforms now or hereafter known, including without limitation, screenings in motion picture theaters, broadcasts and cablecast transmissions for viewing on televisions, computer screens, and other audiovisual receivers, viewings on screens by means of digital video disc (DVD) players, video on demand (VOD) services, and digital video recording (DVR) services, direct internet transmission, and viewing on digital computer-based systems which respond to the users' actions (interactive media).

(7) "Person" has the same meaning as provided in RCW 82.04.030.

**Part XII**

**Concerning the Excise Taxation of Martial Arts**

**Sec.**  RCW 82.04.050 and 2015 3rd sp.s. c 6 s 1105 are each amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Abstract, title insurance, and escrow services;

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

(d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(e) Service charges associated with tickets to professional sporting events;

(f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or 18.71A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170; ((~~and~~))

(H) Yoga, ((~~tai chi, or~~)) chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not ((~~primarily used for physical fitness activities other than yoga, tai chi, or chi gong classes~~)) operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; ((~~yoga; boxing, kickboxing, wrestling, martial arts, or mixed martial arts training;~~)) or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (c)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(c)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day care center or licensed family day care provider as those terms are defined in RCW 43.215.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed twenty-one days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age eighteen, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

NEW SECTION. **Sec.**  RCW 82.32.805 and 82.32.808 do not apply to this part.

**Part XIII**

**Leasehold Excise Credits and Exemptions for Colleges and Universities**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference provided in section 1302, chapter . . ., Laws of 2017 3rd sp. sess. (section 1302 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to reduce structural inefficiencies in the state tax structure, as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to reduce the leasehold excise tax for certain taxpayers where the amount of leasehold excise tax exceeds what would be owed in property taxes if the property was owned by the taxpayer.

(4) To measure the effectiveness of the tax preference provided in section 1302, chapter . . ., Laws of 2017 3rd sp. sess. (section 1302 of this act) in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must determine the amount of leasehold excise tax paid by taxpayers claiming the credit under section 1302 of this act in comparison to the amount of leasehold excise taxes or property taxes paid by a sample of taxpayers occupying property geographically proximate to taxpayers claiming the credit under section 1302 of this act. The amount of leasehold excise tax or property tax must be expressed in dollars per thousand dollars of assessed value and any other way the joint legislative audit and review committee deems necessary to clearly convey the data.

(5)(a) The information provided by taxpayers to the department of revenue and publicly available property tax data is intended to provide the informational basis for the evaluation under subsection (4) of this section.

(b) In addition to the data source described under (a) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under subsection (4) of this section.

(6) The amount of credit reported by a taxpayer to the department is not confidential tax information under RCW 82.32.330 and is subject to disclosure.

**Sec.**  RCW 82.29A.120 and 2013 c 235 s 3 are each amended to read as follows:

(1)(a) After computation of the taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040, the following credits are allowed in determining the tax payable:

((~~(1)~~)) (i) For lessees and sublessees who would qualify for a property tax exemption under RCW 84.36.381 if the property were privately owned, the tax otherwise due after this credit ((~~shall~~)) must be reduced by a percentage equal to the percentage reduction in property tax that would result from the property tax exemption under RCW 84.36.381; and

((~~(2)~~)) (ii) A credit of thirty-three percent of the tax otherwise due is allowed with respect to a product lease.

(b)(i) For a leasehold interest in real property owned by a state university, a credit is allowed equal to the amount that the tax under this chapter exceeds the property tax that would apply if the real property were privately owned by the taxpayer.

(ii) The credit under this subsection (1)(b) is available only if the tax parcel that is subject to the leasehold interest has a market value in excess of ten million dollars. If the leasehold interest attaches to two or more parcels, the credit is available if at least one of the tax parcels has a market value in excess of ten million dollars. In either case, the market value must be determined as of January 1st of the year prior to the year for which the credit is claimed.

(iii) For purposes of calculating the credit under this subsection (1)(b):

(A) If a tax parcel does not have current assessed value in accordance with RCW 84.40.020, a market value appraisal performed by a Washington state-certified general real estate appraiser, as defined in RCW 18.140.010, is sufficient to establish the market value. If the underlying real property that is the subject of the leasehold interest consists of a part of one or more tax parcels, this appraisal must include the market value of the part of the parcel or parcels to which the leasehold interest applies; and

(B) The property tax that would otherwise apply to the real property that is the subject of the leasehold interest is calculated using the existing consolidated levy rate for the property's tax code area.

(iv) The definitions in this subsection apply throughout this subsection (1)(b) unless the context clearly requires otherwise.

(A) "Market value" means the true and fair value of the property as that term is used in RCW 84.40.030, based on the property's highest and best use and determined by any reasonable means approved by the department.

(B) "Real property" has the same meaning as in RCW 84.04.090 and also includes all improvements upon the land the fee of which is still vested in the public owner.

(C) "State university" has the same meaning as "state universities" as provided in RCW 28B.10.016.

(v) The credit provided under this subsection (1)(b) may not be claimed for tax reporting periods beginning on or after January 1, 2032.

(2) This section expires January 1, 2032.

**Sec.**  RCW 82.29A.130 and 2008 c 194 s 1 and 2008 c 84 s 2 are each reenacted and amended to read as follows:

The following leasehold interests ((~~shall be~~)) are exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility which is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions((~~: PROVIDED, That~~)). However, this exemption ((~~shall~~)) does not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States((~~: PROVIDED, That~~)). However, this exemption ((~~shall apply~~)) applies only where it is determined that contract rent paid is greater than or equal to ninety percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)((~~(b)~~)) (g).

(8) All leasehold interests for which annual taxable rent is less than two hundred fifty dollars per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor ((~~shall be~~)) are deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than thirty days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee ((~~shall be~~)) are deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest ((~~shall be~~)) is deemed to give use or possession for a period of less than thirty days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for persons with disabilities of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 ((~~shall~~)) must be imposed and ((~~shall~~)) must be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over one million, that has a seating capacity of over forty thousand, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in RCW 36.102.010, that is constructed on or after January 1, 1998. For the purposes of this subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

(16) All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW.

(17) All leasehold interests in property that is: (a) Owned by the United States government or a municipal corporation; (b) listed on any federal or state register of historical sites; and (c) wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(18) All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission seats and is in a county that had a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand when the amphitheater first opened to the public.

For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

(19) All leasehold interests in real property used for the placement of military housing meeting the requirements of RCW 84.36.665.

(20) All leasehold interests in facilities owned or used by a community college or technical college, which leasehold interest provides:

(a) Food services for students, faculty, and staff;

(b) The operation of a bookstore on campus; or

(c) Maintenance, operational, or administrative services to the community college or technical college.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 1303 of this act.

**Part XIV**

**Miscellaneous Provisions**

NEW SECTION. **Sec.**  Section 201 of this act expires on the date that section 202 of this act takes effect.

NEW SECTION. **Sec.**  Parts III and X of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2017.

NEW SECTION. **Sec.**  Sections 401 and 402 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 30, 2017.

NEW SECTION. **Sec.**  Sections 201, 203, 204, 205, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, and 707 of this act and parts I and VIII of this act take effect January 1, 2018.

NEW SECTION. **Sec.**  Sections 502, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, and 525 of this act expire January 1, 2018.

NEW SECTION. **Sec.**  (1) Part I of this act expires January 1, 2028, if a review by the joint legislative audit and review committee under section 101 of this act finds that the number of businesses that are a part of main street communities is not equal to or more than the number that were a part of main street communities prior to the enactment of the tax preference in section 103, chapter . . ., Laws of 2017 3rd sp. sess. (section 103 of this act).

(2) The joint legislative audit and review committee must provide written notice of the expiration date of part I of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the committee.

NEW SECTION. **Sec.**  (1)(a) Except as provided in (b) of this subsection, part VII of this act expires July 1, 2027.

(b)(i) If a person must make repayment under section 708 of this act, part VII of this act expires January 1, 2024.

(ii) Section 706 of this act expires January 1, 2018.

(2) If the contingent expiration date in subsection (1)(b) of this section occurs, the department of revenue must provide written notice of the expiration date of part VII of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

(3) If the contingent expiration date in subsection (1)(b) of this section occurs, the joint legislative audit and review committee is not required to perform the evaluation required in section 701 of this act.

NEW SECTION. **Sec.**  Sections 1301 and 1302 of this act take effect January 1, 2022.

**--- END ---**

Passed by the Senate June 30, 2017.

Passed by the House June 30, 2017.

Approved by the Governor July 7, 2017, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State July 7, 2017.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 201-205 and 601-606, Substitute Senate Bill No. 5977 entitled:

"AN ACT Relating to revenue."

Sections 201 to 205 reduce the general manufacturing business and occupation tax rate and the processing hire rate over four years, beginning in 2019. But at a time when we are asking homeowners to pay more in property taxes to support our children's education, Sections 201 to 205 instead give a tax break to business; and, 21 percent of the revenue from this tax break goes to out-of-state oil companies. This revenue could be used for education, mental health, public safety, and a host of other important public services.

Moreover, these tax reductions should be considered in a thoughtful, transparent process that incorporates public input and business accountability.

Sections 601 to 606 make sales and use tax exemptions to encourage the conversion of power plants to natural gas or biomass from coal. These sections incentivize a company to do something that it is already required to do by law, giving it an unfair advantage over other Washington companies.

For these reasons I have vetoed Sections 201-205 and 601-606 of Substitute Senate Bill No. 5977.

With the exception of Sections 201-205 and 601-606, Substitute Senate Bill No. 5977 is approved."