
SUBSTITUTE HOUSE BILL 1324

State of Washington

66th Legislature

2019 Regular Session

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

READ FIRST TIME 02/08/19.

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

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

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

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

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

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

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

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

16 (c) Have submitted a business plan that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (14) "Qualified area" means:

39 (a) A county with a population density of less than one hundred
40 persons per square mile or a county smaller than two hundred twenty-

1 five square miles as determined by the office of financial management
2 and published each year by the department for the period July 1st to
3 June 30th; or

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

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

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

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

15 (ii) Has its principal business operations in one or more
16 qualified areas in the state. For purposes of this subsection
17 (16)(a)(ii), the principal business operations of a business are
18 located at a place where:

19 (A) At least sixty percent of the business's employees work; or

20 (B) Employees who are paid at least sixty percent of the
21 business's payroll work; and

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

31 (b) An out-of-state business that agrees to relocate employees
32 using the proceeds of a growth investment to establish principal
33 business operations in a qualified area in the state qualifies as a
34 targeted small business if the business satisfies the requirements
35 of:

36 (i) Subsection (16)(a)(i) and (iii) of this section at the time
37 of the initial growth investment in the business; and

38 (ii) Subsection (16)(a)(ii) of this section not later than the
39 one hundred eightieth day after receiving the initial growth
40 investment or a later date agreed to by the department.

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

6 (a) The total investment authority sought by the applicant under
7 the business plan;

8 (b) A copy of the applicant's or an affiliate of the applicant's
9 license as a rural business investment company under Title 7 U.S.C.
10 Sec. 2009cc, as amended, as of January 1, 2019, or as a small
11 business investment company under Title 15 U.S.C. Sec. 681, as
12 amended, as of January 1, 2019, provided that any such affiliate used
13 to satisfy this requirement must have been an affiliate of the
14 applicant or its affiliates for at least four years;

15 (c) Evidence that, as of the date the application is submitted,
16 the applicant or affiliates of the applicant have invested at least
17 one hundred fifty million dollars in nonpublic companies located in
18 areas within or without the state of Washington that would be
19 qualified areas if in Washington;

20 (d) An estimate of the number of jobs that will be created or
21 retained in this state as a result of the applicant's growth
22 investments and the assumptions used to determine the estimate;

23 (e) A business plan that includes a revenue impact assessment
24 projecting state and local tax revenue to be generated by the
25 applicant's proposed growth investments prepared by a nationally
26 recognized third-party independent economic forecasting firm using a
27 dynamic economic forecasting model that analyzes the applicant's
28 business plan over the ten years following the date the application
29 is submitted to the department;

30 (f) A signed affidavit from each investor stating the amount of
31 credit-eligible capital contributions each taxpayer commits to make
32 and against which of the two tax types the investor plans to apply
33 the credit:

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

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

36 (g) A nonrefundable application fee of five thousand dollars.

37 (2) The department must make an application determination within
38 thirty days of receipt in the order in which the applications are
39 received. The department must deem applications received on the same
40 day to have been received simultaneously.

1 (3) The department may not approve more than one hundred million
2 dollars in investment authority and not more than sixty million
3 dollars in credit-eligible capital contributions under this section.
4 If requests for investment authority exceed this limitation, the
5 department must proportionally reduce the investment authority and
6 the credit-eligible capital contributions for each approved
7 application as necessary to avoid exceeding the limit.

8 (4) The department may not approve more than thirty-five million
9 dollars in investment authority and not more than twenty-one million
10 dollars in credit-eligible capital contributions for an applicant
11 under this section. If fewer than three applicants have been approved
12 as a fund under this section by November 1, 2020, a fund may apply
13 for additional investment authority and capital contributions in
14 excess of the limit under this subsection.

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

17 (a) The application is incomplete or the application fee is not
18 paid in full;

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

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

28 (d) The credit-eligible capital contributions described in
29 affidavits submitted under subsection (1)(f) of this section do not
30 equal at least sixty percent of the total amount of investment
31 authority sought under the applicant's business plan; or

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

35 (6) If the department denies an application, the applicant may
36 provide additional information to the department to complete,
37 clarify, or cure defects in the application identified by the
38 department, except for failure to make the submission required by
39 subsection (1)(f) of this section, within fifteen days of the notice
40 of denial for reconsideration and determination. The department must

1 review and reconsider such applications within thirty days before any
2 pending application submitted after the original submission date of
3 the reconsidered application.

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

8 (8) Upon approval of an application, the department must provide
9 a written approval to the applicant as a rural development and
10 opportunity zone fund specifying the amount of the applicant's
11 investment authority.

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

14 (a) Within sixty days:

15 (i) Collect the credit-eligible capital contributions from each
16 investor; and

17 (ii) Collect one or more investments of cash that, when added to
18 the contributions collected under (a)(i) of this subsection, equal
19 the fund's investment authority.

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

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

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

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

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

38 (d) The closing date of the rural development and opportunity
39 zone fund.

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

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

21 (13) Application fees submitted to the department under
22 subsection (1)(g) of this section must be deposited in the rural
23 development and opportunity zone account created in section 6 of this
24 act.

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

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

34 INSURANCE PREMIUM TAX CREDIT ESTABLISHED. (1) A tax credit is
35 authorized against the tax, including the retaliatory provision,
36 otherwise due under this chapter for persons that made a credit-
37 eligible capital contribution to a rural development and opportunity

1 zone fund and were issued a tax credit certificate under section 5 of
2 this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (d) The rural development and opportunity zone fund invests more
31 than the greater of five million dollars or twenty percent of its
32 investment authority in the same targeted small business, including
33 amounts invested in affiliates of the targeted small business; or

34 (e) The rural development and opportunity zone fund makes a
35 growth investment in a targeted small business that directly or
36 indirectly through an affiliate owns, has the right to acquire an
37 ownership interest, makes a loan to, or makes an investment in the
38 rural development and opportunity zone fund, an affiliate of the
39 fund, or an investor in the fund. This subsection does not apply to
40 investments in publicly traded securities by a targeted small

1 business or an owner or affiliate of such business. For purposes of
2 this subsection, a rural development and opportunity zone fund will
3 not be considered an affiliate of a targeted small business solely as
4 a result of its growth investment.

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

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

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

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

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

1 generated by growth investments made pursuant to, or related to, the
2 fund's participation in the program, and determine whether the fund
3 must repay to the state any portion of the credit as described in
4 subsections (2) and (3) of this section.

5 (2) For the number of jobs created or retained by the fund:

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

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

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

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

35 (a) For purposes of this subsection, the actual aggregate state
36 and local government revenues generated by growth investments made
37 pursuant to, or related to, the fund's participation in the program
38 must be calculated by the department of commerce using a dynamic
39 economic forecasting model that analyzes the fund's growth

1 investments made pursuant to, or related to, the fund's participation
2 in the program.

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

11 (4) The department must provide written notice to the fund of any
12 repayment due under this section. The fund must submit payment to the
13 department of revenue within thirty days of the date of that notice.
14 If the fund fails to pay the full amount by the due date in the
15 notice or any extension granted by the department of revenue, the
16 department of revenue must impose penalties and interest as provided
17 under chapter 82.32 RCW.

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

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

- 37 (a) A bank statement evidencing each growth investment;
38 (b) The name and location of principal operations;

1 (c) Industry NAICS code of each business receiving a growth
2 investment, including either the determination letter set forth in
3 section 10 of this act or evidence that the business qualified as a
4 targeted small business at the time the investment was made;

5 (d) The number of jobs created or retained as a result of the
6 fund's growth investments as of the last day of the preceding
7 calendar year and the assumptions used to determine the number of
8 employment positions;

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

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

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

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

20 (a) The names of the applicants approved and the amount and type
21 of credit allocated to investors in the fund;

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

24 (c) A summary of the information reported by each fund under
25 subsection (1) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **Sec. 14.** RCW 82.04.260 and 2018 c 164 s 3 are each amended to
30 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (12)(a) Until July 1, (~~(2024)~~) 2056, upon every person engaging
31 within this state in the business of extracting timber or extracting
32 for hire timber; as to such persons the amount of tax with respect to
33 the business is, in the case of extractors, equal to the value of
34 products, including by-products, extracted, or in the case of
35 extractors for hire, equal to the gross income of the business,
36 multiplied by the rate of 0.4235 percent from July 1, 2006, through
37 June 30, 2007, (~~and~~) 0.2904 percent from July 1, 2007, through June
38 30, 2024, and 0.2384 percent from July 1, 2024, through June 30,
39 2056.

1 (b) Until July 1, (~~2024~~) 2056, upon every person engaging
2 within this state in the business of manufacturing or processing for
3 hire: (i) Timber into timber products or wood products; or (ii)
4 timber products into other timber products or wood products; as to
5 such persons the amount of the tax with respect to the business is,
6 in the case of manufacturers, equal to the value of products,
7 including by-products, manufactured, or in the case of processors for
8 hire, equal to the gross income of the business, multiplied by the
9 rate of 0.4235 percent from July 1, 2006, through June 30, 2007,
10 (~~and~~) 0.2904 percent from July 1, 2007, through June 30, 2024, and
11 0.2384 percent from July 1, 2024, through June 30, 2056.

12 (c) Until July 1, (~~2024~~) 2056, upon every person engaging
13 within this state in the business of selling at wholesale: (i) Timber
14 extracted by that person; (ii) timber products manufactured by that
15 person from timber or other timber products; or (iii) wood products
16 manufactured by that person from timber or timber products; as to
17 such persons the amount of the tax with respect to the business is
18 equal to the gross proceeds of sales of the timber, timber products,
19 or wood products multiplied by the rate of 0.4235 percent from July
20 1, 2006, through June 30, 2007, (~~and~~) 0.2904 percent from July 1,
21 2007, through June 30, 2024, and 0.2384 percent from July 1, 2024,
22 through June 30, 2056.

23 (d) Until July 1, (~~2024~~) 2056, upon every person engaging
24 within this state in the business of selling standing timber; as to
25 such persons the amount of the tax with respect to the business is
26 equal to the gross income of the business multiplied by the rate of
27 0.2904 percent through June 30, 2024, and 0.2384 percent from July 1,
28 2024, through June 30, 2056. For purposes of this subsection (12)(d),
29 "selling standing timber" means the sale of timber apart from the
30 land, where the buyer is required to sever the timber within thirty
31 months from the date of the original contract, regardless of the
32 method of payment for the timber and whether title to the timber
33 transfers before, upon, or after severance.

34 (e) For purposes of this subsection, the following definitions
35 apply:

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

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

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

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

23 (v) "Timber products" means:

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

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

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

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

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

39 (13) Upon every person engaging within this state in inspecting,
40 testing, labeling, and storing canned salmon owned by another person,

1 as to such persons, the amount of tax with respect to such activities
2 is equal to the gross income derived from such activities multiplied
3 by the rate of 0.484 percent.

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

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

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

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

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

24 ~~((3)(a) The surcharge imposed under this section is suspended~~
25 ~~if:~~

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

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

34 ~~(b)(i) The suspension of the surcharge under (a)(i) of this~~
35 ~~subsection (3) takes effect on the first day of the calendar month~~
36 ~~that is at least thirty days after the end of the month during which~~
37 ~~the department determines that receipts from the surcharge total at~~
38 ~~least eight million dollars during the fiscal biennium. The surcharge~~
39 ~~is imposed again at the beginning of the following fiscal biennium.~~

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

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

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

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

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

38 ~~(e) Adjustments of the amount of the surcharge by the department~~
39 ~~are final and may not be used to challenge the validity of the~~
40 ~~surcharge imposed under this section.~~

1 ~~(f) The department must provide timely notice to affected~~
2 ~~taxpayers of the suspension of the surcharge or an adjustment of the~~
3 ~~surcharge.~~

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

8 (3) This section expires July 1, 2056.

9 NEW SECTION. **Sec. 16.** The provisions of RCW 82.32.805 and
10 82.32.808 do not apply to sections 14 and 15 of this act.

11 NEW SECTION. **Sec. 17.** Sections 1 through 6, 8 through 12, and
12 18 of this act constitute a new chapter in Title 43 RCW.

13 NEW SECTION. **Sec. 18.** This chapter expires July 1, 2025.

--- END ---