
HOUSE BILL 2541

State of Washington

66th Legislature

2020 Regular Session

By Representatives Maycumber, Chapman, Blake, Harris, Kloba, Chambers, Stonier, Dent, Griffey, Barkis, Van Werven, Graham, Walsh, Goehner, Rude, Kretz, Tharinger, and Lekanoff

Read first time 01/15/20. Referred to Committee on Rural Development, Agriculture, & Natural Resources.

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

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

6 NEW SECTION. **Sec. 1.** TAX PREFERENCE PERFORMANCE STATEMENT. (1)
7 This section is the tax preference performance statement for the tax
8 preferences created in sections 6 and 12, chapter . . ., Laws of 2020
9 (sections 6 and 12 of this act). This performance statement is only
10 intended to be used for subsequent evaluation of the tax preference.

11 (2) The legislature categorizes these tax preferences as ones
12 intended to create or retain jobs, as indicated in RCW
13 82.32.808(2)(c).

14 (3) It is the legislature's specific public policy objective to
15 create and retain jobs in rural communities of Washington. It is the
16 legislature's intent to provide a vested tax credit that may be used
17 to offset certain business and occupation taxes under chapter 82.04
18 RCW, and insurance premium taxes under chapter 48.14 RCW, owed by
19 Washington taxpayers, in order to induce such taxpayers to invest in
20 rural development funds whose management teams:

- 1 (a) Have experience investing in companies located in rural
2 areas;
- 3 (b) Have been vetted by the United States small business
4 administration or the United States department of agriculture; and
- 5 (c) Have submitted a business plan that:
- 6 (i) Projects the number of jobs that will be created or retained
7 as a result of such investment fund's investments in rural companies
8 and includes the assumptions used to determine the projection; and
- 9 (ii) Includes a revenue impact assessment that demonstrates that
10 the business plan will result in a positive economic impact on
11 Washington state over a ten-year period that exceeds the cumulative
12 amount of tax credits that would be issued to the investment fund's
13 investors, thereby:
- 14 (A) Enabling the capitalization of rural development funds;
- 15 (B) Incentivizing and requiring rural development funds to invest
16 in companies located in rural areas of Washington; and
- 17 (C) Enabling the creation or retention of jobs in rural
18 communities of Washington.
- 19 (4) If the joint legislative audit and review committee finds
20 that the aggregate number of jobs created or retained matches or
21 exceeds the aggregate number of jobs set forth in the business plans
22 of approved rural development funds, in the six years following
23 enactment of these tax preferences, then the legislature intends to
24 continue the tax preferences created in sections 6 and 12,
25 chapter . . ., Laws of 2020 (sections 6 and 12 of this act).
- 26 (5) In order to obtain the data necessary to perform the review
27 in subsection (4) of this section, the joint legislative audit and
28 review committee may refer to:
- 29 (a) The annual report that a taxpayer claiming the tax credit in
30 section 12 of this act must file with the department of revenue under
31 RCW 82.32.534; and
- 32 (b) The annual reports required under section 10 of this act.

33 NEW SECTION. **Sec. 2.** SHORT TITLE. This chapter may be known and
34 cited as the Washington rural development act.

35 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
36 section apply throughout this chapter unless the context clearly
37 requires otherwise.

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

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

11 (3) "Closing date" means the date on which a rural development
12 fund has collected all of the amounts specified by section 4 of this
13 act.

14 (4) "Credit-eligible capital contribution" means an investment of
15 cash by a person who, as of the closing date, is subject to (a)
16 business and occupation taxes under chapter 82.04 RCW, or (b)
17 insurance premium taxes under chapter 48.14 RCW, or (c) both, in a
18 rural development fund that equals the amount specified on a tax
19 credit certificate issued by the department under section 4 of this
20 act. The investment must purchase an equity interest in the rural
21 development fund or purchase, at par value or premium, a debt
22 instrument that has a maturity date at least five years from the
23 closing date and a repayment schedule that is no faster than level
24 principal amortization over five years.

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

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

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

31 (8) "Investment authority" means the amount stated on the written
32 approval issued under section 4(8) of this act certifying the rural
33 development fund. At least sixty percent of a rural development
34 fund's investment authority must be comprised of credit-eligible
35 capital contributions.

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

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

1 (11) "Jobs retained" means the number of full-time employees in
2 the state at a targeted small business that existed before the
3 initial growth investment in the targeted small business, for which
4 the rural development fund has obtained a certification from an
5 executive officer of the targeted small businesses that such jobs
6 would have been lost or moved out of state if the growth investment
7 had not been made.

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

13 (13) "Principal business operations" means a business located at
14 the place or places where at least sixty percent of its employees
15 work or where employees that are paid at least sixty percent of its
16 payroll work. An out-of-state business that has agreed to relocate
17 employees or an in-state business that has agreed to hire full-time
18 employees using the proceeds of a growth investment to establish its
19 principal business operations in a qualified area in the state is
20 deemed to have its principal business operations in this new location
21 provided it satisfies this definition within one hundred eighty days
22 after receiving the growth investment, unless the department agrees
23 to a later date.

24 (14) "Qualified area" means a county with a population density of
25 less than one hundred persons per square mile or a county smaller
26 than two hundred twenty-five square miles as determined by the office
27 of financial management and published each year by the department for
28 the period July 1st to June 30th.

29 (15) "Rural development fund" or "fund" means an entity certified
30 by the department under section 4 of this act.

31 (16) "Targeted small business" means a business that, at the time
32 of the initial investment in the company by a rural development fund:

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

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

37 (c) Is engaged in industries related to manufacturing, plant
38 sciences, services, distribution, warehousing, farming, forestry,
39 biotechnology, fisheries, biofuels, technology, or the marketing and
40 sale of technology, business that supplies inputs for agriculture and

1 food industry, agricultural primary production, feed industry,
2 branded or other food production, or if the business is not engaged
3 in such industries, the department makes a determination that the
4 investment will be highly beneficial to the economic growth of the
5 state.

6 NEW SECTION. **Sec. 4.** TAX CREDIT APPLICATION, APPROVAL, AND
7 ALLOCATIONS. (1) Beginning January 1, 2021, the department must
8 accept applications for approval as a rural development fund. The
9 application must include all of the following:

10 (a) The total investment authority sought by the applicant under
11 the business plan;

12 (b) A copy of the applicant's or an affiliate of the applicant's
13 license as a rural business investment company under Title 7 U.S.C.
14 Sec. 2009cc, as amended, as of January 1, 2020, or as a small
15 business investment company under Title 15 U.S.C. Sec. 681, as
16 amended, as of January 1, 2020;

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

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

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

29 (d) A business plan that includes a revenue impact assessment
30 projecting state and local tax revenue to be generated by the
31 applicant's proposed growth investments prepared by a firm with
32 experience in providing economic analysis and revenue projection for
33 government entities using a dynamic economic forecasting model that
34 analyzes the applicant's business plan over the ten years following
35 the date the application is submitted to the department;

36 (e) A signed affidavit from each investor stating the amount of
37 credit-eligible capital contributions each taxpayer commits to make
38 and against which of the two tax types the investor plans to apply
39 the credit:

- 1 (i) Business and occupation taxes under chapter 82.04 RCW; or
- 2 (ii) Insurance premium taxes under chapter 48.14 RCW; and
- 3 (f) A nonrefundable application fee of five thousand dollars.

4 (2) The department must make an application determination within
5 thirty days of receipt in the order in which the applications are
6 received. The department must deem applications received on the same
7 day to have been received simultaneously.

8 (3) The department may not approve more than one hundred million
9 dollars in investment authority and not more than sixty million
10 dollars in credit-eligible capital contributions under this section.
11 If requests for investment authority exceed this limitation, the
12 department must proportionally reduce the investment authority and
13 the credit-eligible capital contributions for each approved
14 application as necessary to avoid exceeding the limit.

15 (4) The department may not approve more than thirty-five million
16 dollars in investment authority and not more than twenty-one million
17 dollars in credit-eligible capital contributions for an applicant
18 under this section. If fewer than three applicants have been approved
19 as a rural development fund under this section by November 1, 2021, a
20 rural development fund may apply for additional investment authority
21 and capital contributions in excess of the limit under this
22 subsection.

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

25 (a) The application is incomplete or the application fee is not
26 paid in full;

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

29 (c) The revenue impact assessment submitted under subsection
30 (1)(d) of this section does not demonstrate that the applicant's
31 business plan will result in a positive economic impact on aggregate
32 state and local government revenue over a ten-year period that
33 exceeds the cumulative amount of tax credits that would be issued to
34 the applicant's investors under section 6 or 12 of this act if the
35 application were approved;

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

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

4 (6) If the department denies an application, the applicant may
5 provide additional information to the department to complete,
6 clarify, or cure defects in the application identified by the
7 department, except for failure to make the submission required by
8 subsection (1)(e) of this section, within fifteen days of the notice
9 of denial for reconsideration and determination. The department must
10 review and reconsider such applications within thirty days before any
11 pending application submitted after the original submission date of
12 the reconsidered application.

13 (7) The department may not deny a rural development fund
14 application or reduce the requested investment authority for reasons
15 other than those described in subsections (3) through (5) of this
16 section.

17 (8) Upon approval of an application, the department must provide
18 a written approval to the applicant as a rural development fund
19 specifying the amount of the applicant's investment authority.

20 (9) After receiving the approval issued under subsection (8) of
21 this section, a rural development fund must:

22 (a) Within sixty days:

23 (i) Collect the credit-eligible capital contributions from each
24 investor; and

25 (ii) Collect one or more investments of cash that, when added to
26 the contributions collected under (a)(i) of this subsection, equal
27 the rural development fund's investment authority. An amount equal to
28 at least ten percent of the rural development fund's investment
29 authority must be equity investments by affiliates of the rural
30 development fund, including employees, officers, and directors of
31 affiliates.

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

35 (10) Upon receiving documentation from the rural development fund
36 that it is fully funded, the department must issue a tax credit
37 certificate to each investor whose affidavit was included in the
38 application specifying the amount of the investor's credit-eligible
39 capital contribution. The department must provide a copy of the tax
40 credit certificates to the office of the insurance commissioner for

1 investors earning tax credits eligible for use against insurance
2 premium taxes, including the retaliatory provision, imposed under
3 chapter 48.14 RCW, and to the department of revenue for investors
4 earning tax credits eligible for use against business and occupation
5 taxes imposed under chapter 82.04 RCW. The tax credit certificate
6 must include:

- 7 (a) The credit-eligible capital contribution amount;
- 8 (b) The name of the rural development fund;
- 9 (c) The unified business identifier number of the investor; and
- 10 (d) The closing date of the rural development fund.

11 (11) Tax credits may be transferred or allocated to an affiliate
12 of the taxpayer. Taxpayers must notify the department if they wish to
13 transfer or allocate a credit to an affiliate. The department will
14 verify the transfer is to an affiliate and then issue an amended tax
15 credit certificate to the taxpayer and a new tax credit certificate
16 to the affiliate. The department must provide the department of
17 revenue and the office of the insurance commissioner with a copy of
18 the amended tax credit certificate of the transferor and the new tax
19 credit certificate of the transferee.

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

31 (13)(a) A rural development fund shall, once it has received
32 approval from the department under subsection (8) of this section,
33 reimburse the department for the rural development fund's
34 proportionate share of the costs that the department incurs to
35 administer the rural development program, from the point in time that
36 the rural development fund receives approval from the department
37 under subsection (8) of this section to the point in time that the
38 department approves the exit of the rural development fund under
39 section 7 of this act.

1 (b) The department shall quarterly calculate a rural development
2 fund's proportionate share of the department's costs to administer
3 the rural development program according to the following formula:
4 One-half of the department's overall costs to administer the rural
5 development program for the preceding quarter, multiplied by a rural
6 development fund's investment authority as specified by the
7 department pursuant to section 4(4) of this act, divided by the
8 overall investment authority for rural development program as
9 specified by the department pursuant to section 4(3) of this act.

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

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

21 (14) Application fees submitted to the department under
22 subsection (1)(f) of this section and administrative cost
23 reimbursements submitted to the department under subsection (13) of
24 this section must be deposited in the rural development account
25 created in section 5 of this act.

26 NEW SECTION. **Sec. 5.** RURAL DEVELOPMENT ACCOUNT. The rural
27 development account is created in the state treasury. All receipts
28 from application fees and administrative cost reimbursements
29 submitted to the department under section 4 of this act must be
30 deposited into the account. Moneys in the account may be spent only
31 after appropriation. Expenditures from the account may be used by the
32 department only for administering this chapter.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.14
34 RCW to read as follows:

35 INSURANCE PREMIUM TAX CREDIT ESTABLISHED. (1) A tax credit is
36 authorized against the tax, including the retaliatory provision,
37 otherwise due under this chapter for persons that made a credit-

1 eligible capital contribution to a rural development fund and were
2 issued a tax credit certificate under section 4 of 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 4 of this act.
5 The credit is equal to the amount of the taxpayer's credit-eligible
6 capital contribution to the rural development fund as specified on
7 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 4 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 7 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 this
25 chapter in a rural development fund that equals the amount specified
26 on a tax credit certificate issued by the department of commerce
27 under section 4 of this act. The investment must purchase an equity
28 interest in the rural development fund or purchase, at par value or
29 premium, a debt instrument that has a maturity date at least five
30 years from the closing date and a repayment schedule that is no
31 faster than level principal amortization over five years.

32 (c) "Rural development fund" means an entity certified by the
33 department of commerce under section 4 of this act.

34 (10) This section expires July 1, 2026.

35 NEW SECTION. **Sec. 7.** REVOCATION OF TAX CREDIT CERTIFICATES AND
36 EXIT. (1) The department must revoke a tax credit certificate issued
37 under section 4 of this act if any of the following occur with
38 respect to a rural development fund before it exits the program in
39 accordance with subsection (4) of this section:

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

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

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

26 (d) The rural development fund invests more than the greater of
27 five million dollars or twenty percent of its investment authority in
28 the same targeted small business, including amounts invested in
29 affiliates of the targeted small business, exclusive of repaid or
30 redeemed growth investments that are reinvested in the same small
31 targeted small business; or

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

1 rural development fund will not be considered an affiliate of a
2 targeted small business solely as a result of its growth investment.

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

9 (3) If tax credit certificates are revoked under this section,
10 the associated investment authority and credit-eligible capital
11 contributions do not count toward the limit on total investment
12 authority and credit-eligible capital contributions described by
13 section 4(3) of this act. The department must first award reverted
14 authority pro rata to each rural development fund that was awarded
15 less than the requested investment authority under section 4(3) of
16 this act. The department may award any remaining investment authority
17 to new applicants.

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

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

34 NEW SECTION. **Sec. 8.** JOBS EVALUATION. (1) Before approving the
35 exit of a rural development fund from the program, the department
36 must evaluate the number of jobs created and jobs retained by the
37 rural development fund, and the aggregate state and local government
38 revenues generated by growth investments made pursuant to, or related
39 to, the rural development fund's participation in the program, and

1 determine whether the rural development fund must repay to the state
2 any portion of the credit as described in subsections (2) and (3) of
3 this section.

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

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

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

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

24 (3) For the aggregate state and local government revenues
25 generated by growth investments made pursuant to, or related to, the
26 rural development fund's participation in the program, if the amount
27 of aggregate state and local government revenue generated by growth
28 investments made pursuant to, or related to, the rural development
29 fund's participation in the program over the course of the rural
30 development fund's participation in the program is less than the
31 cumulative amount of tax credits that were issued to the rural
32 development fund's investors under section 6 or 12 of this act, the
33 rural development fund must repay to the state one hundred percent of
34 the difference between the cumulative amount of tax credits that were
35 issued to the rural development fund's investors under section 6 or
36 12 of this act and the actual aggregate state and local government
37 revenues generated by growth investments made pursuant to, or related
38 to, the rural development fund's participation in the program. For
39 purposes of this subsection, "growth investments made pursuant to, or
40 related to, the rural development fund's participation in the

1 program" means those investments made by the rural development fund
2 in targeted small businesses in qualified areas as part of the fund's
3 investment authority under the program, as well as any additional
4 investments the rural development fund made in those targeted small
5 businesses in qualified areas using sources of capital not included
6 within the rural development fund's investment authority under the
7 program.

8 (4) The department may contract with a firm with experience in
9 providing economic analysis and revenue projection for government
10 entities in order to evaluate the number of jobs created and jobs
11 retained by the rural development fund, and the aggregate state and
12 local government revenues generated by growth investments made
13 pursuant to, or related to, the rural development fund's
14 participation in the program. The calculation of the aggregate state
15 and local government revenues generated by growth investments made
16 pursuant to, or related to, the rural development fund's
17 participation in the program must be performed using a dynamic
18 economic forecasting model.

19 (5) The department must provide written notice to the rural
20 development fund of any repayment due under this section. The rural
21 development fund must submit payment to the department of revenue
22 within thirty days of the date of that notice. If the rural
23 development fund fails to pay the full amount by the due date in the
24 notice or any extension granted by the department of revenue, the
25 department of revenue must impose penalties and interest as provided
26 under chapter 82.32 RCW.

27 NEW SECTION. **Sec. 9.** REQUEST FOR DETERMINATION. A rural
28 development fund, before making a growth investment, may request from
29 the department a written opinion as to whether the business in which
30 it proposed to invest is a targeted small business. The department,
31 not later than the fifteenth business day after the date of receipt
32 of the request, must notify the rural development fund of its
33 determination. If the department fails to notify the rural
34 development fund by the fifteenth business day of its determination,
35 the business in which the rural development fund proposes to invest
36 must be considered a targeted small business.

37 NEW SECTION. **Sec. 10.** REPORTING OBLIGATIONS. (1) Each rural
38 development fund must submit a report to the department on or before

1 the fifth business day after each anniversary of the closing date
2 until the rural development fund has exited the program in accordance
3 with section 7(4) of this act. The report must provide documentation
4 as to the rural development fund's growth investments and include:

5 (a) A bank statement evidencing each growth investment;

6 (b) The name and location of principal operations;

7 (c) Industry NAICS code of each business receiving a growth
8 investment, including either the determination letter set forth in
9 section 9 of this act or evidence that the business qualified as a
10 targeted small business at the time the investment was made;

11 (d) The number of jobs created or retained as a result of the
12 rural development fund's growth investments as of the last day of the
13 preceding calendar year and the assumptions used to determine the
14 number of employment positions;

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

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

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

23 (3) By January 1, 2022, and annually thereafter, the department
24 must submit a report to the economic development committees of the
25 legislature that includes the following:

26 (a) The names of the applicants approved and the amount and type
27 of credit allocated to investors in the rural development fund;

28 (b) The criteria used to select the applicants approved under
29 section 4 of this act; and

30 (c) A summary of the information reported by each rural
31 development fund under subsection (1) of this section.

32 NEW SECTION. **Sec. 11.** ADOPTION OF RULES. The department must
33 adopt rules necessary to implement this chapter.

34 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.04
35 RCW to read as follows:

36 BUSINESS AND OCCUPATION TAX CREDIT ESTABLISHED. (1) A tax credit
37 is authorized against tax otherwise due under this chapter for
38 persons that made a credit-eligible capital contribution to a rural

1 development fund and were issued a tax credit certificate under
2 section 4 of 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 4 of this act.
5 The credit is equal to the amount of the taxpayer's credit-eligible
6 capital contribution to the rural development fund as specified on
7 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 department all returns, other forms, or any
20 other information as may be required by the department.

21 (6) A taxpayer claiming a credit under this section must submit a
22 copy of the tax credit certificate issued to the taxpayer under
23 section 4 of this act to the department when filing the first return
24 in which the taxpayer will claim a credit against taxes due under
25 this chapter.

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

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

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

39 (b) Include in the notice the amount of all credits previously
40 claimed and that such amount be paid in full within thirty days of

1 the date of the notice. If the taxpayer or the affiliate fails to pay
2 the amount in full by the due date in the notice or any extension
3 granted by the department, the department must impose penalties and
4 interest as provided under chapter 82.32 RCW; and

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

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

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

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

19 (b) "Credit-eligible capital contribution" means an investment of
20 cash by a person subject to (a) business and occupation taxes under
21 this chapter, or (b) insurance premium taxes under chapter 48.14 RCW
22 in a rural development fund that equals the amount specified on a tax
23 credit certificate issued by the department of commerce under section
24 4 of this act, or (c) both. The investment must purchase an equity
25 interest in the rural development fund or purchase, at par value or
26 premium, a debt instrument that has a maturity date at least five
27 years from the closing date and a repayment schedule that is no
28 faster than level principal amortization over five years.

29 (c) "Rural development fund" means an entity certified by the
30 department of commerce under section 4 of this act.

31 (11) This section expires July 1, 2026.

32 NEW SECTION. **Sec. 13.** Sections 1 through 5, 7 through 11, and
33 14 of this act constitute a new chapter in Title 43 RCW.

34 NEW SECTION. **Sec. 14.** This chapter expires July 1, 2026.

35 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
36 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2020, in the omnibus appropriations act, this
2 act is null and void.

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