

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5977

Chapter 37, Laws of 2017
(partial veto)

65th Legislature
2017 3rd Special Session

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

EFFECTIVE DATE: PENDING

Passed by the Senate June 30, 2017
Yeas 33 Nays 16

CYRUS HABIB

President of the Senate

Passed by the House June 30, 2017
Yeas 83 Nays 10

FRANK CHOPP

Speaker of the House of Representatives

Approved July 7, 2017 2:52 PM with
exception of sections 201-205 and
601-606, which are vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SUBSTITUTE SENATE
BILL 5977** as passed by Senate and
the House of Representatives on the
dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

July 7, 2017

**Secretary of State
State of Washington**

1 NEW SECTION. **Sec. 101.** This section is the tax preference
2 performance statement for the tax preference contained in section
3 103, chapter . . ., Laws of 2017 3rd sp. sess. (section 103 of this
4 act). This performance statement is only intended to be used for
5 subsequent evaluation of the tax preference. It is not intended to
6 create a private right of action by any party or be used to determine
7 eligibility for preferential tax treatment.

8 (1) The legislature categorizes this tax preference as one
9 intended to promote contributions to main street programs and to
10 enhance community and economic revitalization and development of main
11 street business districts under categories as indicated in RCW
12 82.32.808(2) (a) and (f).

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

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

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

30 **Sec. 102.** RCW 82.73.020 and 2005 c 514 s 903 are each amended to
31 read as follows:

32 (1) Application for tax credits under this chapter must be
33 (~~made~~) submitted to the department before making a contribution to
34 a program or the main street trust fund. The application (~~shall~~)
35 must be made to the department in a form and manner prescribed by the
36 department. The application (~~shall~~) must contain information
37 regarding the proposed amount of contribution to a program or the
38 main street trust fund, and other information required by the
39 department to determine eligibility under this chapter (~~(514, Laws of~~

1 2005)). The department (~~shall~~) must rule on the application within
2 forty-five days. Except as provided in RCW 82.73.030(5), applications
3 (~~shall~~) must be approved on a first-come basis.

4 (2) (~~The person must make the contribution described in the~~
5 ~~approved application by the end of the calendar year in which the~~
6 ~~application is approved to claim a credit allowed under RCW~~
7 ~~82.73.030.~~

8 (~~3~~)) The department (~~shall~~) may not accept any applications
9 before (~~January 1, 2006~~) the second Monday in January of each
10 calendar year.

11 **Sec. 103.** RCW 82.73.030 and 2005 c 514 s 904 are each amended to
12 read as follows:

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

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

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

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

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

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

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

35 (ii) Between the second Monday in January and March 31st of the
36 same calendar year, the department must evenly allocate the amount of
37 statewide credits allowed under subsection (4) of this section based
38 on the total number of programs and the main street trust fund as of
39 January 1st in the same calendar year. The department may not approve

1 contributions for a program or the main street trust fund that would
2 cause the total amount of approved credits for a program or the main
3 street trust fund to exceed the allocated amount.

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

6 (6) The credit may be claimed against any tax due under chapters
7 82.04 and 82.16 RCW only in the calendar year immediately following
8 the calendar year in which the credit was approved by the department
9 and the contribution was made to the program or the main street trust
10 fund. Credits may not be carried over to subsequent years. No refunds
11 may be granted for credits under this chapter.

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

14 (a) The approved credit((τ)); or

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

19 NEW SECTION. Sec. 104. A new section is added to chapter 82.73
20 RCW to read as follows:

21 (1) A person that was approved for credit as provided in RCW
22 82.73.020 must make the total approved contribution by November 15th
23 of the calendar year in which the application is approved. If
24 November 15th falls upon a Saturday, Sunday, or legal holiday, the
25 payment of the contribution will be considered timely if made on the
26 next business day.

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

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

32 (3) A person that was approved for credit as provided in RCW
33 82.73.020 after November 15th must make the total approved
34 contribution by the end of the calendar year in which the
35 contribution was approved.

36 ****Part II***

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

1 *Sec. 201. RCW 82.04.240 and 2004 c 24 s 4 are each amended to
2 read as follows:

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

9 (a) 0.484 percent through December 31, 2018;

10 (b) 0.4356 percent from January 1, 2019, through December 31,
11 2019;

12 (c) 0.3872 percent from January 1, 2020, through December 31,
13 2020;

14 (d) 0.3388 percent from January 1, 2021, through December 31,
15 2021; and

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

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

*Sec. 201 was vetoed. See message at end of chapter.

20 *Sec. 202. RCW 82.04.240 and 2017 c 135 s 9 are each amended to
21 read as follows:

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

28 (a) 0.484 percent through December 31, 2018;

29 (b) 0.4356 percent from January 1, 2019, through December 31,
30 2019;

31 (c) 0.3872 percent from January 1, 2020, through December 31,
32 2020;

33 (d) 0.3388 percent from January 1, 2021, through December 31,
34 2021; and

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

36 (2)(a) Upon every person engaging within this state in the
37 business of manufacturing semiconductor materials, as to such persons
38 the amount of tax with respect to such business is, in the case of

1 manufacturers, equal to the value of the product manufactured, or, in
2 the case of processors for hire, equal to the gross income of the
3 business, multiplied by the rate of 0.275 percent. For the purposes
4 of this subsection "semiconductor materials" means silicon crystals,
5 silicon ingots, raw polished semiconductor wafers, compound
6 semiconductors, integrated circuits, and microchips.

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

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

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

*Sec. 202 was vetoed. See message at end of chapter.

15 *Sec. 203. RCW 82.04.280 and 2017 c 323 s 508 are each amended
16 to read as follows:

17 (1) Upon every person engaging within this state in the business
18 of: (a) Printing materials other than newspapers, and of publishing
19 periodicals or magazines; (b) building, repairing or improving any
20 street, place, road, highway, easement, right-of-way, mass public
21 transportation terminal or parking facility, bridge, tunnel, or
22 trestle which is owned by a municipal corporation or political
23 subdivision of the state or by the United States and which is used or
24 to be used, primarily for foot or vehicular traffic including mass
25 transportation vehicles of any kind and including any readjustment,
26 reconstruction or relocation of the facilities of any public, private
27 or cooperatively owned utility or railroad in the course of such
28 building, repairing or improving, the cost of which readjustment,
29 reconstruction, or relocation, is the responsibility of the public
30 authority whose street, place, road, highway, easement, right-of-way,
31 mass public transportation terminal or parking facility, bridge,
32 tunnel, or trestle is being built, repaired or improved; (c)
33 extracting for hire (~~(or processing for hire)~~), except persons
34 taxable as extractors for hire (~~(or processors for hire)~~) under
35 another section of this chapter; (d) operating a cold storage
36 warehouse or storage warehouse, but not including the rental of cold
37 storage lockers; (e) representing and performing services for fire or
38 casualty insurance companies as an independent resident managing

1 general agent licensed under the provisions of chapter 48.17 RCW; (f)
2 radio and television broadcasting, excluding network, national and
3 regional advertising computed as a standard deduction based on the
4 national average thereof as annually reported by the federal
5 communications commission, or in lieu thereof by itemization by the
6 individual broadcasting station, and excluding that portion of
7 revenue represented by the out-of-state audience computed as a ratio
8 to the station's total audience as measured by the 100 micro-volt
9 signal strength and delivery by wire, if any; (g) engaging in
10 activities which bring a person within the definition of consumer
11 contained in RCW 82.04.190(6); as to such persons, the amount of tax
12 on such business is equal to the gross income of the business
13 multiplied by the rate of 0.484 percent.

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

19 (a) 0.484 percent through December 31, 2018;

20 (b) 0.4356 percent from January 1, 2019, through December 31,
21 2019;

22 (c) 0.3872 percent from January 1, 2020, through December 31,
23 2020;

24 (d) 0.3388 percent from January 1, 2021, through December 31,
25 2021; and

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

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

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

34 (b) "Storage warehouse" means a building or structure, or any
35 part thereof, in which goods, wares, or merchandise are received for
36 storage for compensation, except field warehouses, fruit warehouses,
37 fruit packing plants, warehouses licensed under chapter 22.09 RCW,
38 public garages storing automobiles, railroad freight sheds, docks and
39 wharves, and "self-storage" or "mini storage" facilities whereby
40 customers have direct access to individual storage areas by separate

1 entrance. "Storage warehouse" does not include a building or
2 structure, or that part of such building or structure, in which an
3 activity taxable under RCW 82.04.272 is conducted.

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

*Sec. 203 was vetoed. See message at end of chapter.

8 *Sec. 204. RCW 82.32.790 and 2017 c 323 s 509 and 2017 c 135 s
9 47 are each reenacted and amended to read as follows:

10 (1)(a) Section 202, chapter . . ., Laws of 2017 3rd sp. sess.
11 (section 202 of this act), sections 9, 13, 17, 22, 24, 30, 32, and
12 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129,
13 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5
14 through 10, chapter 149, Laws of 2003 are contingent upon the siting
15 and commercial operation of a significant semiconductor microchip
16 fabrication facility in the state of Washington.

17 (b) For the purposes of this section:

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

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

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

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

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

34 (b) If, after making a determination that a contract has been
35 signed and the sections referenced in subsection (1) of this section
36 are effective, the department discovers that commencement of
37 commercial production did not take place within three years of the
38 date the contract was signed, the department must make a

1 *determination that chapter 149, Laws of 2003 is no longer effective,*
2 *and all taxes that would have been otherwise due are deemed deferred*
3 *taxes and are immediately assessed and payable from any person*
4 *reporting tax under RCW 82.04.240(2) or claiming an exemption or*
5 *credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965,*
6 *82.08.970, 82.12.970, or 84.36.645. The department is not authorized*
7 *to make a second determination regarding the effective date of the*
8 *sections referenced in subsection (1) of this section.*

**Sec. 204 was vetoed. See message at end of chapter.*

9 **NEW SECTION. Sec. 205. Part II of this act is exempt from the*
10 *automatic expiration date provisions of RCW 82.32.805(1)(a).*

**Sec. 205 was vetoed. See message at end of chapter.*

11 **Part III**

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

14 NEW SECTION. **Sec. 301.** (1) This section is the tax preference
15 performance statement for the tax preferences contained in section
16 302, chapter . . ., Laws of 2017 3rd sp. sess. (section 302 of this
17 act). This performance statement is only intended to be used for
18 subsequent evaluation of the tax preferences. It is not intended to
19 create a private right of action by any party or be used to determine
20 eligibility for preferential tax treatment.

21 (2) The legislature categorizes these tax preferences as ones
22 intended to reduce structural inefficiencies, as indicated in RCW
23 82.32.808(2)(d).

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

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

1 intended to create a private right of action by any party or be used
2 to determine eligibility for preferential tax treatment.

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

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

13 (4) If a review finds that the number of people employed by the
14 solar silicon industry in Washington is the same or more than in
15 2015, and that at least sixty percent of employees earn sixty
16 thousand dollars a year or more, then the legislature intends to
17 extend the expiration date of the tax preference.

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

22 **Sec. 402.** RCW 82.04.294 and 2013 2nd sp.s. c 13 s 902 are each
23 amended to read as follows:

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

34 (2) Upon every person engaging within this state in the business
35 of making sales at wholesale of solar energy systems using
36 photovoltaic modules or stirling converters, or of solar grade
37 silicon, silicon solar wafers, silicon solar cells, thin film solar
38 devices, or compound semiconductor solar wafers to be used
39 exclusively in components of such systems, manufactured by that

1 person; as to such persons the amount of tax with respect to such
2 business is equal to the gross proceeds of sales of the solar energy
3 systems using photovoltaic modules or stirling converters, or of the
4 solar grade silicon to be used exclusively in components of such
5 systems, multiplied by the rate of 0.275 percent.

6 (3) Silicon solar wafers, silicon solar cells, thin film solar
7 devices, solar grade silicon, or compound semiconductor solar wafers
8 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
9 82.12.9651.

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

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 403.** RCW 82.04.294 and 2017 c ... s 402 (section 402 of
2 this act) are each amended to read as follows:

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

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

24 (3) Silicon solar wafers, silicon solar cells, thin film solar
25 devices, solar grade silicon, or compound semiconductor solar wafers
26 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
27 82.12.9651.

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

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

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

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

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

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

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

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

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

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

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

18 (6) This section expires July 1, 2027.

19 Part V

20 Semiconductor Materials Manufacturing

21 NEW SECTION. **Sec. 501.** (1) This section is the tax preference
22 performance statement for the tax preferences contained in sections
23 502 and 503, chapter . . . , Laws of 2017 3rd sp. sess. (sections 502
24 and 503 of this act). This performance statement is only intended to
25 be used for subsequent evaluation of the tax preferences. It is not
26 intended to create a private right of action by any party or be used
27 to determine eligibility for preferential tax treatment.

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

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

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

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

14 **Sec. 502.** RCW 82.04.2404 and 2010 c 114 s 105 are each amended
15 to read as follows:

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

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

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

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

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

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

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

1 **Sec. 503.** RCW 82.04.2404 and 2017 c 135 s 10 are each amended to
2 read as follows:

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 504.** (1) This section is the tax preference
28 performance statement for the tax preferences contained in sections
29 505 through 508 of this act. This performance statement is only
30 intended to be used for subsequent evaluation of the tax preferences.
31 It is not intended to create a private right of action by any party
32 or be used to determine eligibility for preferential tax treatment.

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

37 (3) It is the legislature's specific public policy objective to
38 encourage significant construction projects; retain, expand, and
39 attract semiconductor business; and encourage and expand family-wage

1 jobs. It is the legislature's intent to extend by ten years the
2 preferential tax rates for sales and use of gases and chemicals used
3 in the production of semiconductor materials, in order to encourage
4 the growth and retention of the semiconductor business in Washington,
5 thereby strengthening Washington's competitiveness with other states
6 for manufacturing investment.

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

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

18 **Sec. 505.** RCW 82.08.9651 and 2014 c 97 s 405 are each amended to
19 read as follows:

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

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

36 (b) A person claiming the exemption under this section and who is
37 required to file a complete annual report with the department under
38 RCW 82.32.534 as a result of claiming the tax preference provided by

1 RCW 82.04.2404 is not also required to file a complete annual survey
2 under RCW 82.32.585.

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

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

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

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

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

16 **Sec. 506.** RCW 82.08.9651 and 2017 c 135 s 23 are each amended to
17 read as follows:

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

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

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

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

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

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

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

9 **Sec. 507.** RCW 82.12.9651 and 2014 c 97 s 406 are each amended to
10 read as follows:

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

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

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

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

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

37 (a) The number of persons employed by the person claiming the tax
38 preference is less than ninety percent of the person's three-year

1 employment average for the three years immediately preceding the year
2 in which the preferential tax rate is claimed; or

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

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

7 **Sec. 508.** RCW 82.12.9651 and 2017 c 135 s 31 are each amended to
8 read as follows:

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

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

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

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

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

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

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

1 **Sec. 509.** RCW 82.08.965 and 2010 c 114 s 123 are each amended to
2 read as follows:

3 (1) The tax levied by RCW 82.08.020 does not apply to charges
4 made for labor and services rendered in respect to the constructing
5 of new buildings used for the manufacturing of semiconductor
6 materials, to sales of tangible personal property that will be
7 incorporated as an ingredient or component of such buildings during
8 the course of the constructing, or to labor and services rendered in
9 respect to installing, during the course of constructing, building
10 fixtures not otherwise eligible for the exemption under RCW
11 82.08.02565(2)(b). The exemption is available only when the buyer
12 provides the seller with an exemption certificate in a form and
13 manner prescribed by the department. The seller must retain a copy of
14 the certificate for the seller's files.

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

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

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

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

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

1 claiming the exemption under this section must file a complete annual
2 report with the department under RCW 82.32.534.

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

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

12 (5) For the purposes of this section:

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

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

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

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

25 (7) This section expires (~~twelve years after the effective date~~
26 ~~of this act~~) January 1, 2024, unless the contingency in RCW
27 82.32.790(2) occurs.

28 **Sec. 510.** RCW 82.08.965 and 2017 c 135 s 22 are each amended to
29 read as follows:

30 (1) The tax levied by RCW 82.08.020 does not apply to charges
31 made for labor and services rendered in respect to the constructing
32 of new buildings used for the manufacturing of semiconductor
33 materials, to sales of tangible personal property that will be
34 incorporated as an ingredient or component of such buildings during
35 the course of the constructing, or to labor and services rendered in
36 respect to installing, during the course of constructing, building
37 fixtures not otherwise eligible for the exemption under RCW
38 82.08.02565(2)(b). The exemption is available only when the buyer
39 provides the seller with an exemption certificate in a form and

1 manner prescribed by the department. The seller must retain a copy of
2 the certificate for the seller's files.

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

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

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

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

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

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

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

40 (5) For the purposes of this section:

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

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

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

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

13 (7) This section expires (~~twelve years after the effective date~~
14 ~~of this act~~) January 1, 2024, unless the contingency in RCW
15 82.32.790(2) occurs.

16 **Sec. 511.** RCW 82.12.965 and 2010 c 114 s 129 are each amended to
17 read as follows:

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

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

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

32 (4) This section expires (~~twelve years after the effective date~~
33 ~~of this act~~) January 1, 2024, unless the contingency in RCW
34 82.32.790(2) occurs.

35 **Sec. 512.** RCW 82.12.965 and 2017 c 135 s 30 are each amended to
36 read as follows:

37 (1) The provisions of this chapter do not apply with respect to
38 the use of tangible personal property that will be incorporated as an

1 ingredient or component of new buildings used for the manufacturing
2 of semiconductor materials during the course of constructing such
3 buildings or to labor and services rendered in respect to installing,
4 during the course of constructing, building fixtures not otherwise
5 eligible for the exemption under RCW 82.08.02565(2)(b).

6 (2) The eligibility requirements, conditions, and definitions in
7 RCW 82.08.965 apply to this section, including the filing of a
8 complete annual tax performance report with the department under RCW
9 82.32.534.

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

14 (4) This section expires (~~((twelve years after the effective date~~
15 ~~of this act))~~) January 1, 2024, unless the contingency in RCW
16 82.32.790(2) occurs.

17 **Sec. 513.** RCW 84.36.645 and 2010 c 114 s 150 are each amended to
18 read as follows:

19 (1) Machinery and equipment exempt under RCW 82.08.02565 or
20 82.12.02565 used in manufacturing semiconductor materials at a
21 building exempt from sales and use tax and in compliance with the
22 employment requirement under RCW 82.08.965 and 82.12.965 are exempt
23 from property taxation. "Semiconductor materials" has the same
24 meaning as provided in RCW 82.04.240(2).

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

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

29 (4) This section is effective for taxes levied for collection one
30 year after the effective date of (~~((this act))~~) section 150, chapter
31 114, Laws of 2010 and thereafter.

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

36 **Sec. 514.** RCW 84.36.645 and 2017 c 135 s 45 are each amended to
37 read as follows:

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

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

9 (3) A person claiming an exemption under this section must file a
10 complete annual tax performance report with the department under RCW
11 82.32.534.

12 (4) This section is effective for taxes levied for collection one
13 year after the effective date of (~~this act~~) section 150, chapter
14 114, Laws of 2010 and thereafter.

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

19 **Sec. 515.** RCW 82.04.448 and 2010 c 114 s 117 are each amended to
20 read as follows:

21 (1) Subject to the limits and provisions of this section, a
22 credit is authorized against the tax otherwise due under RCW
23 82.04.240(2) for persons engaged in the business of manufacturing
24 semiconductor materials. For the purposes of this section
25 "semiconductor materials" has the same meaning as provided in RCW
26 82.04.240(2).

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

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

1 (c) In those situations where a production building in existence
2 on the effective date of this section will be phased out of
3 operation, during which time employment at the new building at the
4 same site is increased, the person is eligible for credit for
5 employment at the existing building and new building, with the
6 limitation that the combined eligible employment not exceed full
7 employment at the new building. "Full employment" has the same
8 meaning as in RCW 82.08.965. The credit may not be earned until the
9 commencement of commercial production, as that term is used in RCW
10 82.08.965.

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

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

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

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

32 (7) This section expires ~~((twelve years after the effective date~~
33 ~~of this act))~~ January 1, 2024, unless the contingency in RCW
34 82.32.790(2) occurs.

35 **Sec. 516.** RCW 82.04.448 and 2017 c 135 s 17 are each amended to
36 read as follows:

37 (1) Subject to the limits and provisions of this section, a
38 credit is authorized against the tax otherwise due under RCW
39 82.04.240(2) for persons engaged in the business of manufacturing

1 semiconductor materials. For the purposes of this section
2 "semiconductor materials" has the same meaning as provided in RCW
3 82.04.240(2).

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

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

17 (c) In those situations where a production building in existence
18 on the effective date of this section will be phased out of
19 operation, during which time employment at the new building at the
20 same site is increased, the person is eligible for credit for
21 employment at the existing building and new building, with the
22 limitation that the combined eligible employment not exceed full
23 employment at the new building. "Full employment" has the same
24 meaning as in RCW 82.08.965. The credit may not be earned until the
25 commencement of commercial production, as that term is used in RCW
26 82.08.965.

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

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

1 (5) A person claiming the credit under this section must file a
2 complete annual tax performance report with the department under RCW
3 82.32.534.

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

10 (7) This section expires ~~((twelve years after the effective date~~
11 ~~of this act))~~ January 1, 2024, unless the contingency in RCW
12 82.32.790(2) occurs.

13 **Sec. 517.** RCW 82.04.240 and 2010 c 114 s 104 are each amended to
14 read as follows:

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

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

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

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

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

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

1 **Sec. 518.** RCW 82.04.240 and 2017 c 135 s 9 are each amended to
2 read as follows:

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

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

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

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

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

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

28 **Sec. 519.** RCW 82.08.970 and 2010 c 114 s 125 are each amended to
29 read as follows:

30 (1) The tax levied by RCW 82.08.020 does not apply to sales of
31 gases and chemicals used by a manufacturer or processor for hire in
32 the manufacturing of semiconductor materials. This exemption is
33 limited to gases and chemicals used in the manufacturing process to
34 grow the product, deposit or grow permanent or sacrificial layers on
35 the product, to etch or remove material from the product, to anneal
36 the product, to immerse the product, to clean the product, and other
37 such uses whereby the gases and chemicals come into direct contact
38 with the product during the manufacturing process, or uses of gases
39 and chemicals to clean the chambers and other like equipment in which

1 such processing takes place. For the purposes of this section,
2 "semiconductor materials" has the same meaning as provided in RCW
3 82.04.240(2).

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

8 (3) This section expires (~~twelve years after the effective date~~
9 ~~of this act~~) January 1, 2024, unless the contingency in RCW
10 82.32.790(2) occurs.

11 **Sec. 520.** RCW 82.08.970 and 2017 c 135 s 24 are each amended to
12 read as follows:

13 (1) The tax levied by RCW 82.08.020 does not apply to sales of
14 gases and chemicals used by a manufacturer or processor for hire in
15 the manufacturing of semiconductor materials. This exemption is
16 limited to gases and chemicals used in the manufacturing process to
17 grow the product, deposit or grow permanent or sacrificial layers on
18 the product, to etch or remove material from the product, to anneal
19 the product, to immerse the product, to clean the product, and other
20 such uses whereby the gases and chemicals come into direct contact
21 with the product during the manufacturing process, or uses of gases
22 and chemicals to clean the chambers and other like equipment in which
23 such processing takes place. For the purposes of this section,
24 "semiconductor materials" has the same meaning as provided in RCW
25 82.04.240(2).

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

30 (3) This section expires (~~twelve years after the effective date~~
31 ~~of this act~~) January 1, 2024, unless the contingency in RCW
32 82.32.790(2) occurs.

33 **Sec. 521.** RCW 82.12.970 and 2010 c 114 s 131 are each amended to
34 read as follows:

35 (1) The provisions of this chapter do not apply with respect to
36 the use of gases and chemicals used by a manufacturer or processor
37 for hire in the manufacturing of semiconductor materials. This
38 exemption is limited to gases and chemicals used in the manufacturing

1 process to grow the product, deposit or grow permanent or sacrificial
2 layers on the product, to etch or remove material from the product,
3 to anneal the product, to immerse the product, to clean the product,
4 and other such uses whereby the gases and chemicals come into direct
5 contact with the product during the manufacturing process, or uses of
6 gases and chemicals to clean the chambers and other like equipment in
7 which such processing takes place. For purposes of this section,
8 "semiconductor materials" has the same meaning as provided in RCW
9 82.04.240(2).

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

14 (3) This section expires (~~twelve years after the effective date~~
15 ~~of this act~~) January 1, 2024, unless the contingency in RCW
16 82.32.790(2) occurs.

17 **Sec. 522.** RCW 82.12.970 and 2017 c 135 s 32 are each amended to
18 read as follows:

19 (1) The provisions of this chapter do not apply with respect to
20 the use of gases and chemicals used by a manufacturer or processor
21 for hire in the manufacturing of semiconductor materials. This
22 exemption is limited to gases and chemicals used in the manufacturing
23 process to grow the product, deposit or grow permanent or sacrificial
24 layers on the product, to etch or remove material from the product,
25 to anneal the product, to immerse the product, to clean the product,
26 and other such uses whereby the gases and chemicals come into direct
27 contact with the product during the manufacturing process, or uses of
28 gases and chemicals to clean the chambers and other like equipment in
29 which such processing takes place. For purposes of this section,
30 "semiconductor materials" has the same meaning as provided in RCW
31 82.04.240(2).

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

36 (3) This section expires (~~twelve years after the effective date~~
37 ~~of this act~~) January 1, 2024, unless the contingency in RCW
38 82.32.790(2) occurs.

1 **Sec. 523.** RCW 82.04.426 and 2010 c 114 s 110 are each amended to
2 read as follows:

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

5 (2) For the purposes of this section:

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

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

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

15 (4) This section expires (~~nine years after the effective date of~~
16 ~~this act~~) January 1, 2024, unless the contingency in RCW
17 82.32.790(2) occurs.

18 **Sec. 524.** RCW 82.04.426 and 2017 c 135 s 13 are each amended to
19 read as follows:

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

22 (2) For the purposes of this section:

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

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

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

32 (4) This section expires (~~nine years after the effective date of~~
33 ~~this act~~) January 1, 2024, unless the contingency in RCW
34 82.32.790(2) occurs.

35 **Sec. 525.** RCW 82.32.790 and 2017 c 323 s 509 are each amended to
36 read as follows:

37 (1)(a) Sections 509, 511, 513, 515, 517, 519, 521, and 523,
38 chapter . . . , Laws of 2017 3rd sp. sess. (sections 509, 511, 513,

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

7 (b) For the purposes of this section:

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

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

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

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

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

25 (b) If, after making a determination that a contract has been
26 signed and the sections referenced in subsection (1) of this section
27 are effective, the department discovers that commencement of
28 commercial production did not take place within three years of the
29 date the contract was signed, the department must make a
30 determination that chapter 149, Laws of 2003 is no longer effective,
31 and all taxes that would have been otherwise due are deemed deferred
32 taxes and are immediately assessed and payable from any person
33 reporting tax under RCW 82.04.240(2) or claiming an exemption or
34 credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965,
35 82.08.970, 82.12.970, or 84.36.645. The department is not authorized
36 to make a second determination regarding the effective date of the
37 sections referenced in subsection (1) of this section.

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

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

5 **Sec. 526.** RCW 82.32.790 and 2017 c 323 s 509 and 2017 c 135 s 47
6 are each reenacted and amended to read as follows:

7 (1)(a) Sections 510, 512, 514, 516, 518, 520, 522, and 524,
8 chapter . . ., Laws of 2017 3rd sp. sess. (sections 510, 512, 514,
9 516, 518, 520, 522, and 524 of this act), sections 9, 13, 17, 22, 24,
10 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117,
11 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections
12 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent
13 upon the siting and commercial operation of a significant
14 semiconductor microchip fabrication facility in the state of
15 Washington by January 1, 2024.

16 (b) For the purposes of this section:

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

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

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

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

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

34 (b) If, after making a determination that a contract has been
35 signed and the sections referenced in subsection (1) of this section
36 are effective, the department discovers that commencement of
37 commercial production did not take place within three years of the
38 date the contract was signed, the department must make a
39 determination that chapter 149, Laws of 2003 is no longer effective,

1 and all taxes that would have been otherwise due are deemed deferred
2 taxes and are immediately assessed and payable from any person
3 reporting tax under RCW 82.04.240(2) or claiming an exemption or
4 credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965,
5 82.08.970, 82.12.970, or 84.36.645. The department is not authorized
6 to make a second determination regarding the effective date of the
7 sections referenced in subsection (1) of this section.

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

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

15 ***Part VI**

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

18 ***Generation Plants to Convert to Natural Gas-Fired Plants or Biomass***
19 ***Energy Facilities***

20 ****NEW SECTION. Sec. 601. This section is the tax preference***
21 ***performance statement for the tax preference contained in sections***
22 ***602 and 603, chapter . . ., Laws of 2017 3rd sp. sess. (sections 602***
23 ***and 603 of this act). This performance statement is only intended to***
24 ***be used for subsequent evaluation of the tax preference. It is not***
25 ***intended to create a private right of action by any party or be used***
26 ***to determine eligibility for preferential tax treatment.***

27 ***(1) The legislature categorizes this tax preference as one***
28 ***intended to create or retain jobs, as indicated in RCW***
29 ***82.32.808(2)(c).***

30 ***(2) It is the legislature's specific public policy objective to***
31 ***retain jobs at existing coal-fired electric generation facilities by***
32 ***providing a tax exemption to allow these facilities to convert into***
33 ***natural gas-fired generation plants or biomass energy facilities***
34 ***rather than shut down entirely. It is the legislature's intent to***
35 ***provide a tax exemption for the conversion of a coal-fired electric***
36 ***generation facility into a natural gas-fired generation plant or***
37 ***biomass energy facility, in order to reduce the costs recently***
38 ***imposed by the legislature on companies that operate coal-fired***

1 electric generation facilities, thereby increasing the ability of
2 these companies to continue their operations in Washington state,
3 thereby retaining jobs that otherwise would be lost if a coal-fired
4 electric generation facility were to shut down.

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

*Sec. 601 was vetoed. See message at end of chapter.

11 *NEW SECTION. Sec. 602. A new section is added to chapter 82.08
12 RCW to read as follows:

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

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

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

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

27 (2)(a) The exemption in this section is in the form of a
28 remittance. A purchaser claiming an exemption from the tax in the
29 form of a remittance under this section must pay all applicable state
30 and local sales taxes imposed under RCW 82.08.020 and chapter 82.14
31 RCW on all purchases qualifying for the exemption. After the
32 conversion of a coal-fired electric generation facility into a
33 natural gas-fired plant or biomass energy facility is operationally
34 complete, but not earlier than April 1, 2021, the purchaser may then
35 apply to the department for a remittance of one hundred percent of
36 the state and local sales taxes paid under RCW 82.08.020 and chapter
37 82.14 RCW for purchases qualifying under subsection (1) of this
38 section. The purchaser must specify the amount of exempted tax

1 claimed and the qualifying purchases for which the exemption is
2 claimed. The purchaser must retain, in adequate detail, records to
3 enable the department to determine whether the purchaser is entitled
4 to an exemption under this section, including: Invoices; proof of tax
5 paid; and construction contracts.

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

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

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

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

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

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

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

36 (4) This section expires July 1, 2027.

*Sec. 602 was vetoed. See message at end of chapter.

37 *NEW SECTION. Sec. 603. A new section is added to chapter 82.12
38 RCW to read as follows:

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

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

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

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

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

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

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

34 (5) This section expires July 1, 2027.

*Sec. 603 was vetoed. See message at end of chapter.

35 *Sec. 604. RCW 82.14.050 and 2016 c 191 s 4 are each amended to
36 read as follows:

37 (1) The counties, cities, and transportation authorities under
38 RCW 82.14.045, public facilities districts under chapters 36.100 and

1 35.57 RCW, public transportation benefit areas under RCW 82.14.440,
2 regional transportation investment districts, and transportation
3 benefit districts under chapter 36.73 RCW must contract, prior to the
4 effective date of a resolution or ordinance imposing a sales and use
5 tax, the administration and collection to the state department of
6 revenue, which must deduct a percentage amount, as provided by
7 contract, not to exceed two percent of the taxes collected for
8 administration and collection expenses incurred by the department.
9 The remainder of any portion of any tax authorized by this chapter
10 that is collected by the department of revenue must be deposited by
11 the state department of revenue in the local sales and use tax
12 account hereby created in the state treasury. Beginning January 1,
13 2013, the department of revenue must make deposits in the local sales
14 and use tax account on a monthly basis on the last business day of
15 the month in which distributions required in (a) of this subsection
16 are due. Moneys in the local sales and use tax account may be
17 withdrawn only for:

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

22 (b) Making refunds of taxes imposed under the authority of this
23 chapter and RCW 81.104.170 and exempted under RCW 82.08.962,
24 82.12.962, 82.08.02565, 82.12.02565, 82.08.025661, ((or))
25 82.12.025661, section 602 of this act, or section 603 of this act.

26 (2) All administrative provisions in chapters 82.03, 82.08,
27 82.12, and 82.32 RCW, as they now exist or may hereafter be amended,
28 insofar as they are applicable to state sales and use taxes, are
29 applicable to taxes imposed pursuant to this chapter.

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

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

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

*Sec. 604 was vetoed. See message at end of chapter.

12 *Sec. 605. RCW 82.14.060 and 2016 c 191 s 5 are each amended to
13 read as follows:

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

19 (i) The deduction provided for in RCW 82.14.050; and
20 (ii) The amount of any refunds of local sales and use taxes
21 exempted under RCW 82.08.962, 82.12.962, 82.08.02565, 82.12.02565,
22 82.08.025661, ~~((or))~~ 82.12.025661, section 602 of this act, or
23 section 603 of this act, which must be made without appropriation.

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

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

*Sec. 605 was vetoed. See message at end of chapter.

31 *NEW SECTION. Sec. 606. A new section is added to chapter 82.32
32 RCW to read as follows:

33 (1) Beginning one year after the natural gas-fired plant or
34 biomass energy facility is operationally complete, a person must
35 repay all sales and use taxes remitted to the person under sections
36 602 and 603 of this act if the number of employment positions,

1 reported to the employment security department, at the natural gas-
2 fired plant or biomass energy facility decreases by twenty-five
3 percent from the previous year's employment level.

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

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

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

*Sec. 606 was vetoed. See message at end of chapter.

18 Part VII

19 Tax Relief for Silicon Smelters

20 NEW SECTION. Sec. 701. (1) The legislature finds that an
21 opportunity exists through a smelting process to produce silicon
22 metal, which can be used in the production of photovoltaic cells for
23 solar energy systems. The legislature further finds that energy is
24 one of the largest costs for the smelting process and therefore
25 ensuring the lowest possible energy cost is one of the key drivers of
26 business location decisions. The legislature further finds that the
27 silicon smelting process creates an opportunity to reduce carbon
28 dioxide emissions used in the manufacturing of materials for solar
29 energy systems. The legislature further finds that if the silicon
30 smelting process occurs in Washington, the carbon footprint of the
31 end product solar energy systems is likely to be less than if the
32 silicon smelting occurred elsewhere. It is the legislature's specific
33 public policy objective to promote the manufacturing of silicon for
34 use in production of photovoltaic cells for solar energy systems. The
35 legislature intends to provide a public utility tax credit, a
36 business and occupation tax credit, and an exemption from the
37 brokered natural gas use tax for silicon smelters thereby promoting

1 the manufacture of silicon for solar energy systems, thereby reducing
2 the cost of energy in the smelting process, and thereby stimulating
3 economic growth and job creation in Washington's rural counties, as
4 defined in RCW 82.14.370(5).

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

11 (b) The legislature categorizes the tax preferences in sections
12 702 through 707, chapter . . ., Laws of 2017 3rd sp. sess. (sections
13 702 through 707 of this act) as ones intended to create jobs, as
14 indicated in RCW 82.32.808(2)(c) and to provide tax relief for
15 certain businesses or individuals as indicated in RCW
16 82.32.808(2)(e).

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

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

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

28 (iii) Specifically assess the number of employment positions for
29 each silicon smelter claiming or receiving the benefit of the
30 preferences in sections 702 through 707, chapter . . ., Laws of 2017
31 3rd sp. sess. (sections 702 through 707 of this act), using data
32 provided by the department of revenue;

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

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

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

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

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

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

14 NEW SECTION. **Sec. 702.** A new section is added to chapter 82.16
15 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

9 **Sec. 703.** RCW 82.16.--- and 2017 c ... s 702 (section 702 of
10 this act) are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

5 NEW SECTION. **Sec. 704.** A new section is added to chapter 82.04
6 RCW to read as follows:

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

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

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

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

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

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

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

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

32 **Sec. 705.** RCW 82.04.--- and 2017 c ... s 704 (section 704 of
33 this act) are each amended to read as follows:

34 (1) A person who is subject to tax under this chapter on gross
35 income from sales of electricity, natural gas, or manufactured gas
36 made to a silicon smelter is eligible for an exemption from the tax
37 in the form of a credit, if the contract for sale of electricity or

1 gas to the silicon smelter specifies that the price charged for the
2 electricity or gas will be reduced by an amount equal to the credit.

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

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

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

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

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

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

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

23 **Sec. 706.** RCW 82.12.022 and 2015 3rd sp.s. c 6 s 506 are each
24 amended to read as follows:

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

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

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

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

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

8 (b) A person claiming the exemption provided in this subsection
9 (5) must file a complete annual report with the department under RCW
10 82.32.534.

11 (6) The tax imposed by this section does not apply to the use of
12 natural gas, compressed natural gas, or liquefied natural gas, if the
13 consumer uses the gas for transportation fuel as defined in RCW
14 82.16.310.

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

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

20 (a) The person who sold the gas to the consumer when that tax is
21 a gross receipts tax similar to that imposed pursuant to RCW
22 82.16.020 by another state with respect to the gas for which a credit
23 is sought under this subsection; or

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

28 ~~((+8))~~ (9) The use tax imposed in this section must be paid by
29 the consumer to the department.

30 ~~((+9))~~ (10) There is imposed a reporting requirement on the
31 person who delivered the gas to the consumer to make a quarterly
32 report to the department. Such report must contain the volume of gas
33 delivered, name of the consumer to whom delivered, and such other
34 information as the department may require by rule.

35 ~~((+10))~~ (11) The department may adopt rules under chapter 34.05
36 RCW for the administration and enforcement of sections 1 through 6,
37 chapter 384, Laws of 1989.

38 **Sec. 707.** RCW 82.12.022 and 2017 c 135 s 27 are each amended to
39 read as follows:

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

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

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

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

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

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

26 (6) The tax imposed by this section does not apply to the use of
27 natural gas, compressed natural gas, or liquefied natural gas, if the
28 consumer uses the gas for transportation fuel as defined in RCW
29 82.16.310.

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

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

35 (a) The person who sold the gas to the consumer when that tax is
36 a gross receipts tax similar to that imposed pursuant to RCW
37 82.16.020 by another state with respect to the gas for which a credit
38 is sought under this subsection; or

39 (b) The person consuming the gas upon which a use tax similar to
40 the tax imposed by this section was paid to another state with

1 respect to the gas for which a credit is sought under this
2 subsection.

3 ~~((+8))~~ (9) The use tax imposed in this section must be paid by
4 the consumer to the department.

5 ~~((+9))~~ (10) There is imposed a reporting requirement on the
6 person who delivered the gas to the consumer to make a quarterly
7 report to the department. Such report must contain the volume of gas
8 delivered, name of the consumer to whom delivered, and such other
9 information as the department may require by rule.

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

13 NEW SECTION. **Sec. 708.** A new section is added to chapter 82.32
14 RCW to read as follows:

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

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

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

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

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

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

4 **Part VIII**

5 **Invest in Washington Program**

6 **Sec. 801.** RCW 82.85.010 and 2015 3rd sp.s. c 6 s 401 are each
7 amended to read as follows:

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

18 (2)(a) This subsection is the tax preference performance
19 statement for the sales and use tax deferral provided in RCW
20 82.85.040 on expenditures made to build or expand qualified
21 investment projects and purchases of machinery and equipment. This
22 performance statement is only intended to be used for subsequent
23 evaluation of the tax preference. It is not intended to create a
24 private right of action by any party or be used to determine
25 eligibility for preferential tax treatment.

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

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

1 development, or apprenticeship programs in manufacturing or
2 production occupations.

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

18 (3) This section expires January 1, 2026.

19 **Sec. 802.** RCW 82.85.020 and 2015 3rd sp.s. c 6 s 402 are each
20 amended to read as follows:

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

23 (~~{1}~~) (a) "Applicant" means a person applying for a tax
24 deferral under this chapter.

25 (~~{2}~~) (b) "Eligible investment project" means an investment
26 project for qualified buildings and machinery and equipment on
27 (~~{five}~~) two new, renovated, or expanded manufacturing operations per
28 calendar year, (~~{at least two}~~) one of which must be located east of
29 the crest of the Cascade mountains and one of which must be located
30 west of the crest of the Cascade mountains. The deferral provided in
31 this section only applies to the state and local sales and use taxes
32 due on the first ten million dollars in costs for qualified buildings
33 and machinery and equipment.

34 (~~{3}~~) (c) "Initiation of construction" has the same meaning as
35 in RCW 82.63.010.

36 (~~{4}~~) (d) "Investment project" means an investment in qualified
37 buildings or qualified machinery and equipment, including labor and
38 services rendered in the planning, installation, and construction of
39 the project.

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

3 (~~(+6)~~) (f) "Person" has the same meaning as provided in RCW
4 82.04.030.

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

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

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

25 (2) This section expires January 1, 2026.

26 **Sec. 803.** RCW 82.85.040 and 2015 3rd sp.s. c 6 s 404 are each
27 amended to read as follows:

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

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

3 (3) This section expires January 1, 2026.

4 **Part IX**

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

6 NEW SECTION. **Sec. 901.** (1) This section is the tax preference
7 performance statement for the tax preference contained in section
8 902, chapter . . . , Laws of 2017 3rd sp. sess. (section 902 of this
9 act). This performance statement is only intended to be used for
10 subsequent evaluation of the tax preference. It is not intended to
11 create a private right of action by any party or be used to determine
12 eligibility for preferential tax treatment.

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

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

21 (4) To measure the effectiveness of the tax preference in section
22 902, chapter . . . , Laws of 2017 3rd sp. sess. (section 902 of this
23 act) in achieving the specific public policy objective described in
24 subsection (3) of this section, the joint legislative audit and
25 review committee must evaluate this tax preference. In evaluating the
26 tax preference, the joint legislative audit and review committee may
27 refer to data provided to the department of revenue.

28 **Sec. 902.** RCW 82.32.580 and 2005 c 514 s 701 are each amended to
29 read as follows:

30 (1) The governing board of a nonprofit organization, corporation,
31 or association may apply for deferral of taxes on an eligible
32 project. Application ~~((shall))~~ must be made to the department in a
33 form and manner prescribed by the department. The application
34 ~~((shall))~~ must contain information regarding the location of the
35 project, estimated or actual costs of the project, time schedules for
36 completion and operation of the project, and other information
37 required by the department. The department ~~((shall))~~ must rule on the

1 application within sixty days. All applications for the tax deferral
2 under this section must be received no later than December 31, 2008.

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

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

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

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

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

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

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

1 regulation to resell the property for the same use as before, making
2 all or a portion of the land exempt from ad valorem taxation;

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

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

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

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

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

36 (b) The creation, sale, or transfer of a fee interest or a
37 conservation easement for the riparian open space program under RCW
38 76.09.040.

39 (3) Within thirty days after the removal of all or a portion of
40 the land from current use classification under subsection (1) of this

1 section, the assessor must notify the owner in writing, setting forth
2 the reasons for the removal. The seller, transferor, or owner may
3 appeal the removal to the county board of equalization in accordance
4 with the provisions of RCW 84.40.038. The removal notice must explain
5 the steps needed to appeal the removal decision, including when a
6 notice of appeal must be filed, where the forms may be obtained, and
7 how to contact the county board of equalization.

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

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

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

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

36 (5) Additional tax, applicable interest, and penalty become a
37 lien on the land. The lien attaches at the time the land is removed
38 from classification under this chapter and has priority to and must
39 be fully paid and satisfied before any recognizance, mortgage,
40 judgment, debt, obligation, or responsibility to or with which the

1 land may become charged or liable. This lien may be foreclosed upon
2 expiration of the same period after delinquency and in the same
3 manner provided by law for foreclosure of liens for delinquent real
4 property taxes as provided in RCW 84.64.050. Any additional tax
5 unpaid on the due date is delinquent as of the due date. From the
6 date of delinquency until paid, interest must be charged at the same
7 rate applied by law to delinquent ad valorem property taxes.

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

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

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

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

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

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

27 (f) Acquisition of property interests by state agencies or
28 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
29 for the purposes enumerated in those sections. At such time as these
30 property interests are not used for the purposes enumerated in RCW
31 84.34.210 and 64.04.130 the additional tax specified in subsection
32 (4) of this section must be imposed;

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

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

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

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

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

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

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

26 **Sec. 1002.** RCW 84.33.140 and 2014 c 137 s 3, 2014 c 97 s 309,
27 and 2014 c 58 s 27 are each reenacted and amended to read as follows:

28 (1) When land has been designated as forestland under RCW
29 84.33.130, a notation of the designation must be made each year upon
30 the assessment and tax rolls. A copy of the notice of approval
31 together with the legal description or assessor's parcel numbers for
32 the land must, at the expense of the applicant, be filed by the
33 assessor in the same manner as deeds are recorded.

34 (2) In preparing the assessment roll as of January 1, 2002, for
35 taxes payable in 2003 and each January 1st thereafter, the assessor
36 must list each parcel of designated forestland at a value with
37 respect to the grade and class provided in this subsection and
38 adjusted as provided in subsection (3) of this section. The assessor
39 must compute the assessed value of the land using the same assessment

1 ratio applied generally in computing the assessed value of other
2 property in the county. Values for the several grades of bare
3 forestland are as follows:

4	LAND	OPERABILITY	VALUES
5	GRADE	CLASS	PER ACRE
6		1	\$234
7	1	2	229
8		3	217
9		4	157
10		1	198
11	2	2	190
12		3	183
13		4	132
14		1	154
15	3	2	149
16		3	148
17		4	113
18		1	117
19	4	2	114
20		3	113
21		4	86
22		1	85
23	5	2	78
24		3	77
25		4	52
26		1	43
27	6	2	39
28		3	39
29		4	37
30		1	21
31	7	2	21
32		3	20
33		4	20

	LAND	OPERABILITY	VALUES
	GRADE	CLASS	PER ACRE
1	8		1

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

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

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

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

25 (4) For the adjustments to be made on or before December 31,
26 2002, and each succeeding year thereafter, the same procedure
27 described in subsection (3) of this section must be followed using
28 harvester excise tax returns filed under RCW 84.33.074. However, this
29 adjustment must be made to the prior year's adjusted value, and the
30 five-year periods for calculating average harvested timber values
31 must be successively one year more recent.

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

35 (a) Receipt of notice of request to withdraw land classified
36 under RCW 84.34.020(3) within two years before the date of the merger
37 under RCW 84.34.400. Land previously classified under chapter 84.34
38 RCW will be removed under the provisions of this chapter when two

1 assessment years have passed following receipt of the notice as
2 described in RCW 84.34.070(1);

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

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

6 (d) Sale or transfer of all or a portion of the land to a new
7 owner, unless the new owner has signed a notice of forestland
8 designation continuance, except transfer to an owner who is an heir
9 or devisee of a deceased owner or transfer by a transfer on death
10 deed, does not, by itself, result in removal of designation. The
11 signed notice of continuance must be attached to the real estate
12 excise tax affidavit provided for in RCW 82.45.150. The notice of
13 continuance must be on a form prepared by the department. If the
14 notice of continuance is not signed by the new owner and attached to
15 the real estate excise tax affidavit, all compensating taxes
16 calculated under subsection (11) of this section are due and payable
17 by the seller or transferor at time of sale. The auditor may not
18 accept an instrument of conveyance regarding designated forestland
19 for filing or recording unless the new owner has signed the notice of
20 continuance or the compensating tax has been paid, as evidenced by
21 the real estate excise tax stamp affixed thereto by the treasurer.
22 The seller, transferor, or new owner may appeal the new assessed
23 valuation calculated under subsection (11) of this section to the
24 county board of equalization in accordance with the provisions of RCW
25 84.40.038. Jurisdiction is hereby conferred on the county board of
26 equalization to hear these appeals;

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

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

1 assessor. The assessor may not request this evidence more than once
2 in a calendar year;

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

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

10 (6) Land may not be removed from designation if there is a
11 governmental restriction that prohibits, in whole or in part, the
12 owner from harvesting timber from the owner's designated forestland.
13 If only a portion of the parcel is impacted by governmental
14 restrictions of this nature, the restrictions cannot be used as a
15 basis to remove the remainder of the forestland from designation
16 under this chapter. For the purposes of this section, "governmental
17 restrictions" includes: (a) Any law, regulation, rule, ordinance,
18 program, or other action adopted or taken by a federal, state,
19 county, city, or other governmental entity; or (b) the land's zoning
20 or its presence within an urban growth area designated under RCW
21 36.70A.110.

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

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

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

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

34 (8) If land is removed from designation because of any of the
35 circumstances listed in subsection (5)(a) through (d) of this
36 section, the removal applies only to the land affected. If land is
37 removed from designation because of subsection (5)(e) of this
38 section, the removal applies only to the actual area of land that is
39 no longer primarily devoted to the growing and harvesting of timber,
40 without regard to any other land that may have been included in the

1 application and approved for designation, as long as the remaining
2 designated forestland meets the definition of forestland contained in
3 RCW 84.33.035.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (b) A transfer of a property interest to a government entity, or
37 to a nonprofit historic preservation corporation or nonprofit nature
38 conservancy corporation, as defined in RCW 64.04.130, to protect or
39 enhance public resources, or to preserve, maintain, improve, restore,
40 limit the future use of, or otherwise to conserve for public use or

1 enjoyment, the property interest being transferred. At such time as
2 the property interest is not used for the purposes enumerated, the
3 compensating tax is imposed upon the current owner.

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

9 NEW SECTION. Sec. 1003. The provisions of RCW 82.32.805 and
10 82.32.808 do not apply to this part.

11 Part XI

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

13 NEW SECTION. Sec. 1101. (1) This section is the tax preference
14 performance statement for the tax preferences contained in section
15 1102, chapter . . ., Laws of 2017 3rd sp. sess. (section 1102 of this
16 act). This performance statement is only intended to be used for
17 subsequent evaluation of the tax preferences. It is not intended to
18 create a private right of action by any party or be used to determine
19 eligibility for preferential tax treatment.

20 (2) The legislature categorizes these tax preferences as ones
21 intended to create or retain jobs as indicated in RCW
22 82.32.808(2)(c).

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

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

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

1 **Sec. 1102.** RCW 82.04.4489 and 2012 c 189 s 4 are each amended to
2 read as follows:

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

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

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

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

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

34 (6) Credits are available on a first in-time basis. The
35 department must disallow any credits, or portion thereof, that would
36 cause the total amount of credits claimed under this section during
37 any calendar year to exceed three million five hundred thousand
38 dollars. If this limitation is reached, the department must notify
39 all Washington motion picture competitiveness programs that the
40 annual statewide limit has been met. In addition, the department must

1 provide written notice to any person who has claimed tax credits in
2 excess of the limitation in this subsection. The notice must indicate
3 the amount of tax due and provide that the tax be paid within thirty
4 days from the date of the notice. The department may not assess
5 penalties and interest as provided in chapter 82.32 RCW on the amount
6 due in the initial notice if the amount due is paid by the due date
7 specified in the notice, or any extension thereof.

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

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

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

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

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

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

30 **Sec. 1103.** RCW 43.365.010 and 2012 c 189 s 1 are each amended to
31 read as follows:

32 The ((following)) definitions in this section apply ((to))
33 throughout this chapter((7)) unless the context clearly requires
34 otherwise.

35 (1) "Approved motion picture competitiveness program" means a
36 nonprofit organization under the internal revenue code, section
37 501(c)(6), with the sole purpose of revitalizing the state's
38 economic, cultural, and educational standing in the national and
39 international market of motion picture production and associated

1 creative industries and assisting and providing services for
2 attracting the film industry and associated creative industries, by
3 recommending and awarding financial assistance for costs associated
4 with motion pictures in the state of Washington.

5 (2) "Contribution" means cash contributions.

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

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

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

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

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

28 **Part XII**

29 **Concerning the Excise Taxation of Martial Arts**

30 **Sec. 1201.** RCW 82.04.050 and 2015 3rd sp.s. c 6 s 1105 are each
31 amended to read as follows:

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

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

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

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

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

22 (v) Purchases for the purpose of providing the property to
23 consumers as part of competitive telephone service, as defined in RCW
24 82.04.065; or

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

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

35 (c) The term also means every sale of tangible personal property
36 to persons engaged in any business that is taxable under RCW
37 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

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

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

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

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

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

37 (f) The furnishing of lodging and all other services by a hotel,
38 rooming house, tourist court, motel, trailer camp, and the granting
39 of any similar license to use real property, as distinguished from
40 the renting or leasing of real property, and it is presumed that the

1 occupancy of real property for a continuous period of one month or
2 more constitutes a rental or lease of real property and not a mere
3 license to use or enjoy the same. For the purposes of this
4 subsection, it is presumed that the sale of and charge made for the
5 furnishing of lodging for a continuous period of one month or more to
6 a person is a rental or lease of real property and not a mere license
7 to enjoy the same;

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

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

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

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

25 (b) Credit bureau services;

26 (c) Automobile parking and storage garage services;

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

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

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

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

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

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

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

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

17 (D) Separately stated charges for physical therapy provided by a
18 physical therapist, as those terms are defined in RCW 18.74.010, or
19 occupational therapy provided by an occupational therapy
20 practitioner, as those terms are defined in RCW 18.59.020, when
21 performed pursuant to a referral from an authorized health care
22 practitioner or in consultation with an authorized health care
23 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an
24 authorized health care practitioner means a health care practitioner
25 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or
26 18.71A RCW;

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

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

36 (G) The provision of access to an athletic or fitness facility by
37 an educational institution to its students and staff. However,
38 charges made by an educational institution to its alumni or other
39 members of the public for the use of any of the educational
40 institution's athletic or fitness facilities are a retail sale under

1 this subsection (3)(g). For purposes of this subsection
2 (3)(g)(ii)(G), "educational institution" has the same meaning as in
3 RCW 82.04.170; ~~((and))~~

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

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

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

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

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

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

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

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

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

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

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

18 (i) Custom software; or

19 (ii) The customization of prewritten computer software.

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

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

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

34 (7) The term also includes the sale of or charge made for an
35 extended warranty to a consumer. For purposes of this subsection,
36 "extended warranty" means an agreement for a specified duration to
37 perform the replacement or repair of tangible personal property at no
38 additional charge or a reduced charge for tangible personal property,
39 labor, or both, or to provide indemnification for the replacement or
40 repair of tangible personal property, based on the occurrence of

1 specified events. The term "extended warranty" does not include an
2 agreement, otherwise meeting the definition of extended warranty in
3 this subsection, if no separate charge is made for the agreement and
4 the value of the agreement is included in the sales price of the
5 tangible personal property covered by the agreement. For purposes of
6 this subsection, "sales price" has the same meaning as in RCW
7 82.08.010.

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

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

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

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

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

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

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

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

35 (10) The term does not include the sale of or charge made for
36 labor and services rendered in respect to the building, repairing, or
37 improving of any street, place, road, highway, easement, right-of-
38 way, mass public transportation terminal or parking facility, bridge,
39 tunnel, or trestle which is owned by a municipal corporation or
40 political subdivision of the state or by the United States and which

1 is used or to be used primarily for foot or vehicular traffic
2 including mass transportation vehicles of any kind.

3 (11) The term also does not include sales of chemical sprays or
4 washes to persons for the purpose of postharvest treatment of fruit
5 for the prevention of scald, fungus, mold, or decay, nor does it
6 include sales of feed, seed, seedlings, fertilizer, agents for
7 enhanced pollination including insects such as bees, and spray
8 materials to: (a) Persons who participate in the federal conservation
9 reserve program, the environmental quality incentives program, the
10 wetlands reserve program, and the wildlife habitat incentives
11 program, or their successors administered by the United States
12 department of agriculture; (b) farmers for the purpose of producing
13 for sale any agricultural product; (c) farmers for the purpose of
14 providing bee pollination services; and (d) farmers acting under
15 cooperative habitat development or access contracts with an
16 organization exempt from federal income tax under 26 U.S.C. Sec.
17 501(c)(3) of the federal internal revenue code or the Washington
18 state department of fish and wildlife to produce or improve wildlife
19 habitat on land that the farmer owns or leases.

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

36 (13) The term does not include the sale of or charge made for
37 labor, services, or tangible personal property pursuant to agreements
38 providing maintenance services for bus, rail, or rail fixed guideway
39 equipment when a regional transit authority is the recipient of the

1 labor, services, or tangible personal property, and a transit agency,
2 as defined in RCW 81.104.015, performs the labor or services.

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

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

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

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

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

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

36 (iv) Access to amusement park, theme park, and water park
37 facilities, including but not limited to charges for admission and
38 locker or cabana rentals. Discrete charges for rides or other
39 attractions or entertainment that are in addition to the charge for
40 admission are not a retail sale under this subsection (15)(a)(iv).

1 For the purposes of this subsection, an amusement park or theme park
2 is a location that provides permanently affixed amusement rides,
3 games, and other entertainment, but does not include parks or zoos
4 for which the primary purpose is the exhibition of wildlife, or
5 fairs, carnivals, and festivals as defined in (b)(i) of this
6 subsection;

7 (v) Batting cage activities;

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

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

16 (viii) Day trips for sightseeing purposes;

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

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

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

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

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

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

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

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

18 (xvii) Paintball and airsoft activities;

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

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

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

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

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

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

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

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

28 NEW SECTION. **Sec. 1202.** RCW 82.32.805 and 82.32.808 do not
29 apply to this part.

30 **Part XIII**

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

32 NEW SECTION. **Sec. 1301.** (1) This section is the tax preference
33 performance statement for the tax preference provided in section
34 1302, chapter . . ., Laws of 2017 3rd sp. sess. (section 1302 of this
35 act). The performance statement is only intended to be used for
36 subsequent evaluation of the tax preference. It is not intended to

1 create a private right of action by any party or be used to determine
2 eligibility for preferential tax treatment.

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

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

10 (4) To measure the effectiveness of the tax preference provided
11 in section 1302, chapter . . . , Laws of 2017 3rd sp. sess. (section
12 1302 of this act) in achieving the specific public policy objective
13 described in subsection (3) of this section, the joint legislative
14 audit and review committee must determine the amount of leasehold
15 excise tax paid by taxpayers claiming the credit under section 1302
16 of this act in comparison to the amount of leasehold excise taxes or
17 property taxes paid by a sample of taxpayers occupying property
18 geographically proximate to taxpayers claiming the credit under
19 section 1302 of this act. The amount of leasehold excise tax or
20 property tax must be expressed in dollars per thousand dollars of
21 assessed value and any other way the joint legislative audit and
22 review committee deems necessary to clearly convey the data.

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

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

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

34 **Sec. 1302.** RCW 82.29A.120 and 2013 c 235 s 3 are each amended to
35 read as follows:

36 (1)(a) After computation of the taxes imposed pursuant to RCW
37 82.29A.030 and 82.29A.040, the following credits are allowed in
38 determining the tax payable:

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

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

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

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

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

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

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

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

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

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

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

6 (v) The credit provided under this subsection (1)(b) may not be
7 claimed for tax reporting periods beginning on or after January 1,
8 2032.

9 (2) This section expires January 1, 2032.

10 **Sec. 1303.** RCW 82.29A.130 and 2008 c 194 s 1 and 2008 c 84 s 2
11 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (13) All leasehold interests used to provide organized and
5 supervised recreational activities for persons with disabilities of
6 all ages in a camp facility and for public recreational purposes by a
7 nonprofit organization, association, or corporation that would be
8 exempt from property tax under RCW 84.36.030(1) if it owned the
9 property. If the publicly owned property is used for any taxable
10 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and
11 82.29A.040 (~~shall~~) must be imposed and (~~shall~~) must be
12 apportioned accordingly.

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

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

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

38 (17) All leasehold interests in property that is: (a) Owned by
39 the United States government or a municipal corporation; (b) listed
40 on any federal or state register of historical sites; and (c) wholly

1 contained within a designated national historic reserve under 16
2 U.S.C. Sec. 461.

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

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

28 (19) All leasehold interests in real property used for the
29 placement of military housing meeting the requirements of RCW
30 84.36.665.

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

- 34 (a) Food services for students, faculty, and staff;
35 (b) The operation of a bookstore on campus; or
36 (c) Maintenance, operational, or administrative services to the
37 community college or technical college.

38 NEW SECTION. Sec. 1304. The provisions of RCW 82.32.805 and
39 82.32.808 do not apply to section 1303 of this act.

1 **Part XIV**

2 **Miscellaneous Provisions**

3 NEW SECTION. **Sec. 1401.** Section 201 of this act expires on the
4 date that section 202 of this act takes effect.

5 NEW SECTION. **Sec. 1402.** Parts III and X of this act are
6 necessary for the immediate preservation of the public peace, health,
7 or safety, or support of the state government and its existing public
8 institutions, and take effect July 1, 2017.

9 NEW SECTION. **Sec. 1403.** Sections 401 and 402 of this act are
10 necessary for the immediate preservation of the public peace, health,
11 or safety, or support of the state government and its existing public
12 institutions, and take effect June 30, 2017.

13 NEW SECTION. **Sec. 1404.** Sections 201, 203, 204, 205, 403, 503,
14 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, and
15 707 of this act and parts I and VIII of this act take effect January
16 1, 2018.

17 NEW SECTION. **Sec. 1405.** Sections 502, 505, 507, 509, 511, 513,
18 515, 517, 519, 521, 523, and 525 of this act expire January 1, 2018.

19 NEW SECTION. **Sec. 1406.** (1) Part I of this act expires January
20 1, 2028, if a review by the joint legislative audit and review
21 committee under section 101 of this act finds that the number of
22 businesses that are a part of main street communities is not equal to
23 or more than the number that were a part of main street communities
24 prior to the enactment of the tax preference in section 103,
25 chapter . . . , Laws of 2017 3rd sp. sess. (section 103 of this act).

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

31 NEW SECTION. **Sec. 1407.** (1)(a) Except as provided in (b) of
32 this subsection, part VII of this act expires July 1, 2027.

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

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

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

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

14 NEW SECTION. **Sec. 1408.** Sections 1301 and 1302 of this act take
15 effect January 1, 2022.

Passed by the Senate June 30, 2017.

Passed by the House June 30, 2017.

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

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

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

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

"AN ACT Relating to revenue."

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

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

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

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

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

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