
SUBSTITUTE SENATE BILL 5977

State of Washington 65th Legislature 2017 3rd Special Session

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

READ FIRST TIME 06/30/17.

1 AN ACT Relating to revenue; amending RCW 82.73.020, 82.73.030,
2 82.04.240, 82.04.240, 82.04.280, 82.04.294, 82.04.294, 82.04.2404,
3 82.04.2404, 82.08.9651, 82.08.9651, 82.12.9651, 82.12.9651,
4 82.08.965, 82.08.965, 82.12.965, 82.12.965, 84.36.645, 84.36.645,
5 82.04.448, 82.04.448, 82.04.240, 82.04.240, 82.08.970, 82.08.970,
6 82.12.970, 82.12.970, 82.04.426, 82.04.426, 82.32.790, 82.14.050,
7 82.14.060, 82.16.---, 82.04.---, 82.12.022, 82.12.022, 82.85.010,
8 82.85.020, 82.85.040, 82.32.580, 84.34.108, 82.04.4489, 43.365.010,
9 82.04.050, and 82.29A.120; reenacting and amending RCW 82.32.790,
10 82.32.790, 84.33.140, and 82.29A.130; adding a new section to chapter
11 82.73 RCW; adding new sections to chapter 82.04 RCW; adding a new
12 section to chapter 82.08 RCW; adding a new section to chapter 82.12
13 RCW; adding new sections to chapter 82.32 RCW; adding a new section
14 to chapter 82.16 RCW; creating new sections; providing effective
15 dates; providing a contingent effective date; providing expiration
16 dates; providing contingent expiration dates; and declaring an
17 emergency.

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

19 **Part I**
20 **Modifying the Washington Main Street Program**

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.

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
39 manufacturers, equal to the value of the product manufactured, or, in

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

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

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

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

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

16 (1) Upon every person engaging within this state in the business
17 of: (a) Printing materials other than newspapers, and of publishing
18 periodicals or magazines; (b) building, repairing or improving any
19 street, place, road, highway, easement, right-of-way, mass public
20 transportation terminal or parking facility, bridge, tunnel, or
21 trestle which is owned by a municipal corporation or political
22 subdivision of the state or by the United States and which is used or
23 to be used, primarily for foot or vehicular traffic including mass
24 transportation vehicles of any kind and including any readjustment,
25 reconstruction or relocation of the facilities of any public, private
26 or cooperatively owned utility or railroad in the course of such
27 building, repairing or improving, the cost of which readjustment,
28 reconstruction, or relocation, is the responsibility of the public
29 authority whose street, place, road, highway, easement, right-of-way,
30 mass public transportation terminal or parking facility, bridge,
31 tunnel, or trestle is being built, repaired or improved; (c)
32 extracting for hire (~~(or processing for hire)~~), except persons
33 taxable as extractors for hire (~~(or processors for hire)~~) under
34 another section of this chapter; (d) operating a cold storage
35 warehouse or storage warehouse, but not including the rental of cold
36 storage lockers; (e) representing and performing services for fire or
37 casualty insurance companies as an independent resident managing
38 general agent licensed under the provisions of chapter 48.17 RCW; (f)
39 radio and television broadcasting, excluding network, national and

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

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

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

18 (b) 0.4356 percent from January 1, 2019, through December 31,
19 2019;

20 (c) 0.3872 percent from January 1, 2020, through December 31,
21 2020;

22 (d) 0.3388 percent from January 1, 2021, through December 31,
23 2021; and

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

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

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

32 (b) "Storage warehouse" means a building or structure, or any
33 part thereof, in which goods, wares, or merchandise are received for
34 storage for compensation, except field warehouses, fruit warehouses,
35 fruit packing plants, warehouses licensed under chapter 22.09 RCW,
36 public garages storing automobiles, railroad freight sheds, docks and
37 wharves, and "self-storage" or "mini storage" facilities whereby
38 customers have direct access to individual storage areas by separate
39 entrance. "Storage warehouse" does not include a building or

1 structure, or that part of such building or structure, in which an
2 activity taxable under RCW 82.04.272 is conducted.

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

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

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

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, as determined by the director of the department of revenue.

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

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

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

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

9 **Part III**

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

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

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

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

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

32 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.04
33 RCW to read as follows:

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

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

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

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

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

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

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

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

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

27 **Part IV**

28 **Solar Silicon Manufacturing**

29 NEW SECTION. **Sec. 401.** (1) This section is the tax preference
30 performance statement for the tax preferences contained in sections
31 402 and 403, chapter . . . , Laws of 2017 3rd sp. sess. (sections 402
32 and 403 of this act). This performance statement is only intended to
33 be used for subsequent evaluation of the tax preferences. It is not
34 intended to create a private right of action by any party or be used
35 to determine eligibility for preferential tax treatment.

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

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

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

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

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

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

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

1 (3) Silicon solar wafers, silicon solar cells, thin film solar
2 devices, solar grade silicon, or compound semiconductor solar wafers
3 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
4 82.12.9651.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) Upon every person engaging within this state in the business
38 of manufacturing solar energy systems using photovoltaic modules or
39 stirling converters, or of manufacturing solar grade silicon, silicon

1 solar wafers, silicon solar cells, thin film solar devices, or
2 compound semiconductor solar wafers to be used exclusively in
3 components of such systems; as to such persons the amount of tax with
4 respect to such business is, in the case of manufacturers, equal to
5 the value of the product manufactured, or in the case of processors
6 for hire, equal to the gross income of the business, multiplied by
7 the rate of 0.275 percent.

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

19 (3) Silicon solar wafers, silicon solar cells, thin film solar
20 devices, solar grade silicon, or compound semiconductor solar wafers
21 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
22 82.12.9651.

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

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

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

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

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

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

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

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

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

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

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

14 **Part V**

15 **Semiconductor Materials Manufacturing**

16 NEW SECTION. **Sec. 501.** (1) This section is the tax preference
17 performance statement for the tax preferences contained in sections
18 502 and 503, chapter . . . , Laws of 2017 3rd sp. sess. (sections 502
19 and 503 of this act). This performance statement is only intended to
20 be used for subsequent evaluation of the tax preferences. It is not
21 intended to create a private right of action by any party or be used
22 to determine eligibility for preferential tax treatment.

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

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

33 (4) If a review finds that: (a) Since the effective date of this
34 section at least one project in the semiconductor cluster has located
35 in Clark county, and that this project generates at least two
36 thousand five hundred high-wage jobs, all of which pay twenty dollars
37 per hour or more and at least eighty percent of which pay thirty-five
38 dollars per hour or more; and (b) the number of jobs in the

1 semiconductor cluster in Washington has increased since the effective
2 date of this section, then the legislature intends to extend the
3 expiration date of the tax preference.

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

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

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

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

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

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

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

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

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

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

36 (1) Upon every person engaging within this state in the business
37 of manufacturing or processing for hire semiconductor materials, as
38 to such persons the amount of tax with respect to such business is,

1 in the case of manufacturers, equal to the value of the product
2 manufactured, or, in the case of processors for hire, equal to the
3 gross income of the business, multiplied by the rate of 0.275
4 percent.

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

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

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

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

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

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

22 NEW SECTION. Sec. 504. (1) This section is the tax preference
23 performance statement for the tax preferences contained in sections
24 505 through 508 of this act. This performance statement is only
25 intended to be used for subsequent evaluation of the tax preferences.
26 It is not intended to create a private right of action by any party
27 or be used 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 encourage significant construction projects; retain, expand, and
34 attract semiconductor business; and encourage and expand family-wage
35 jobs. It is the legislature's intent to extend by ten years the
36 preferential tax rates for sales and use of gases and chemicals used
37 in the production of semiconductor materials, in order to encourage
38 the growth and retention of the semiconductor business in Washington,

1 thereby strengthening Washington's competitiveness with other states
2 for manufacturing investment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (1) The tax levied by RCW 82.08.020 does not apply to charges
36 made for labor and services rendered in respect to the constructing
37 of new buildings used for the manufacturing of semiconductor
38 materials, to sales of tangible personal property that will be

1 incorporated as an ingredient or component of such buildings during
2 the course of the constructing, or to labor and services rendered in
3 respect to installing, during the course of constructing, building
4 fixtures not otherwise eligible for the exemption under RCW
5 82.08.02565(2)(b). The exemption is available only when the buyer
6 provides the seller with an exemption certificate in a form and
7 manner prescribed by the department. The seller must retain a copy of
8 the certificate for the seller's files.

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

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

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

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

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

37 (3) If the employment requirement is not met for any one calendar
38 year, one-eighth of the exempt sales and use taxes will be due and
39 payable by April 1st of the following year. The department must

1 assess interest to the date the tax was imposed, but not penalties,
2 on the taxes for which the person is not eligible.

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

7 (5) For the purposes of this section:

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

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

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

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

20 (7) This section expires (~~twelve years after the effective date~~
21 ~~of this act~~) January 1, 2024, unless the contingency in RCW
22 82.32.790(2) occurs.

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

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

37 (2) To be eligible under this section the manufacturer or
38 processor for hire must meet the following requirements for an eight-
39 year period, such period beginning the day the new building commences

1 commercial production, or a portion of tax otherwise due will be
2 immediately due and payable pursuant to subsection (3) of this
3 section:

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

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

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

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

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

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

35 (5) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

34 (1) The provisions of this chapter do not apply with respect to
35 the use of tangible personal property that will be incorporated as an
36 ingredient or component of new buildings used for the manufacturing
37 of semiconductor materials during the course of constructing such
38 buildings or to labor and services rendered in respect to installing,

1 during the course of constructing, building fixtures not otherwise
2 eligible for the exemption under RCW 82.08.02565(2)(b).

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

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

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

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

16 (1) Machinery and equipment exempt under RCW 82.08.02565 or
17 82.12.02565 used in manufacturing semiconductor materials at a
18 building exempt from sales and use tax and in compliance with the
19 employment requirement under RCW 82.08.965 and 82.12.965 are exempt
20 from property taxation. "Semiconductor materials" has the same
21 meaning as provided in RCW 82.04.240(2).

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

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

26 (4) This section is effective for taxes levied for collection one
27 year after the effective date of (~~((this act))~~) section 150, chapter
28 114, Laws of 2010 and thereafter.

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

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

35 (1) Machinery and equipment exempt under RCW 82.08.02565 or
36 82.12.02565 used in manufacturing semiconductor materials at a
37 building exempt from sales and use tax and in compliance with the
38 employment requirement under RCW 82.08.965 and 82.12.965 are exempt

1 from property taxation. "Semiconductor materials" has the same
2 meaning as provided in RCW 82.04.240(2).

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

5 (3) A person claiming an exemption under this section must file a
6 complete annual tax performance report with the department under RCW
7 82.32.534.

8 (4) This section is effective for taxes levied for collection one
9 year after the effective date of (~~this act~~) section 150, chapter
10 114, Laws of 2010 and thereafter.

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

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

17 (1) Subject to the limits and provisions of this section, a
18 credit is authorized against the tax otherwise due under RCW
19 82.04.240(2) for persons engaged in the business of manufacturing
20 semiconductor materials. For the purposes of this section
21 "semiconductor materials" has the same meaning as provided in RCW
22 82.04.240(2).

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

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

36 (c) In those situations where a production building in existence
37 on the effective date of this section will be phased out of
38 operation, during which time employment at the new building at the
39 same site is increased, the person is eligible for credit for

1 employment at the existing building and new building, with the
2 limitation that the combined eligible employment not exceed full
3 employment at the new building. "Full employment" has the same
4 meaning as in RCW 82.08.965. The credit may not be earned until the
5 commencement of commercial production, as that term is used in RCW
6 82.08.965.

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

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

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

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

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

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

33 (1) Subject to the limits and provisions of this section, a
34 credit is authorized against the tax otherwise due under RCW
35 82.04.240(2) for persons engaged in the business of manufacturing
36 semiconductor materials. For the purposes of this section
37 "semiconductor materials" has the same meaning as provided in RCW
38 82.04.240(2).

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

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

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

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

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

37 (5) A person claiming the credit under this section must file a
38 complete annual tax performance report with the department under RCW
39 82.32.534.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 "semiconductor materials" has the same meaning as provided in RCW
2 82.04.240(2).

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

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

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

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

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

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

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

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

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

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

13 (3) 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. 522.** RCW 82.12.970 and 2017 c 135 s 32 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 gases and chemicals used by a manufacturer or processor
20 for hire in the manufacturing of semiconductor materials. This
21 exemption is limited to gases and chemicals used in the manufacturing
22 process to grow the product, deposit or grow permanent or sacrificial
23 layers on the product, to etch or remove material from the product,
24 to anneal the product, to immerse the product, to clean the product,
25 and other such uses whereby the gases and chemicals come into direct
26 contact with the product during the manufacturing process, or uses of
27 gases and chemicals to clean the chambers and other like equipment in
28 which such processing takes place. For purposes of this section,
29 "semiconductor materials" has the same meaning as provided in RCW
30 82.04.240(2).

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

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

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
39 claimed and the qualifying purchases for which the exemption is

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

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 603.** A new section is added to chapter 82.12
37 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.

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
39 35.57 RCW, public transportation benefit areas under RCW 82.14.440,

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

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

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

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

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

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

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, (~~(e)~~) 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.

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,
37 reported to the employment security department, at the natural gas-

1 fired plant or biomass energy facility decreases by twenty-five
2 percent from the previous year's employment level.

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

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

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

17 Part VII

18 Tax Relief for Silicon Smelters

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

1 economic growth and job creation in Washington's rural counties, as
2 defined in RCW 82.14.370(5).

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

9 (b) The legislature categorizes the tax preferences in sections
10 702 through 707, chapter . . ., Laws of 2017 3rd sp. sess. (sections
11 702 through 707 of this act) as ones intended to create jobs, as
12 indicated in RCW 82.32.808(2)(c) and to provide tax relief for
13 certain businesses or individuals as indicated in RCW
14 82.32.808(2)(e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) "Silicon smelter" means a manufacturing facility that
39 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 **Sec. 703.** RCW 82.16.--- and 2017 c ... s 702 (section 702 of
6 this act) are each amended 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 for the public
16 utility tax under RCW 82.16.020.

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)) tax performance report
24 required by RCW ((82.32.585)) 82.32.534:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (b) A person claiming the exemption provided in this subsection
5 (5) must file a complete annual report with the department under RCW
6 82.32.534.

7 (6) The tax imposed by this section does not apply to the use of
8 natural gas, compressed natural gas, or liquefied natural gas, if the
9 consumer uses the gas for transportation fuel as defined in RCW
10 82.16.310.

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

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

16 (a) The person who sold the gas to the consumer when that tax is
17 a gross receipts tax similar to that imposed pursuant to RCW
18 82.16.020 by another state with respect to the gas for which a credit
19 is sought under this subsection; or

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

24 ~~((+8))~~ (9) The use tax imposed in this section must be paid by
25 the consumer to the department.

26 ~~((+9))~~ (10) There is imposed a reporting requirement on the
27 person who delivered the gas to the consumer to make a quarterly
28 report to the department. Such report must contain the volume of gas
29 delivered, name of the consumer to whom delivered, and such other
30 information as the department may require by rule.

31 ~~((+10))~~ (11) The department may adopt rules under chapter 34.05
32 RCW for the administration and enforcement of sections 1 through 6,
33 chapter 384, Laws of 1989.

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

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

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

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

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

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

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

22 (6) The tax imposed by this section does not apply to the use of
23 natural gas, compressed natural gas, or liquefied natural gas, if the
24 consumer uses the gas for transportation fuel as defined in RCW
25 82.16.310.

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

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

31 (a) The person who sold the gas to the consumer when that tax is
32 a gross receipts tax similar to that imposed pursuant to RCW
33 82.16.020 by another state with respect to the gas for which a credit
34 is sought under this subsection; or

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

39 ~~((+8))~~ (9) The use tax imposed in this section must be paid by
40 the consumer to the department.

1 ~~((9))~~ (10) There is imposed a reporting requirement on the
2 person who delivered the gas to the consumer to make a quarterly
3 report to the department. Such report must contain the volume of gas
4 delivered, name of the consumer to whom delivered, and such other
5 information as the department may require by rule.

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

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

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

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

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

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

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

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

1 **Part VIII**

2 **Invest in Washington Program**

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

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

15 (2)(a) This subsection is the tax preference performance
16 statement for the sales and use tax deferral provided in RCW
17 82.85.040 on expenditures made to build or expand qualified
18 investment projects and purchases of machinery and equipment. This
19 performance statement is only intended to be used for subsequent
20 evaluation of the tax preference. It is not intended to create a
21 private right of action by any party or be used to determine
22 eligibility for preferential tax treatment.

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

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

37 (d) To measure the effectiveness of the deferral provided in this
38 part in achieving the specific public policy objective described in
39 (c) of this subsection, the joint legislative audit and review

1 committee should refer to information available from the employment
2 security department and department of revenue. If a review finds that
3 each eligible investment project generated at least twenty full-time
4 jobs and increased training opportunities for manufacturing and
5 production jobs, then the legislature intends for the legislative
6 auditor to recommend extending the expiration date of the tax
7 preference. For purposes of this subsection (2)(d), (~~{the term}~~)
8 the term full-time jobs (~~{includes include}~~) include both temporary
9 construction jobs and permanent full-time employment positions
10 created at the eligible investment project within one year of the
11 date that the facility became operationally complete as determined by
12 the department of revenue.

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

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

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

18 (~~{1}~~) (a) "Applicant" means a person applying for a tax
19 deferral under this chapter.

20 (~~{2}~~) (b) "Eligible investment project" means an investment
21 project for qualified buildings and machinery and equipment on
22 (~~{five}~~) two new, renovated, or expanded manufacturing operations per
23 calendar year, (~~{at least two}~~) one of which must be located east of
24 the crest of the Cascade mountains and one of which must be located
25 west of the crest of the Cascade mountains. The deferral provided in
26 this section only applies to the state and local sales and use taxes
27 due on the first ten million dollars in costs for qualified buildings
28 and machinery and equipment.

29 (~~{3}~~) (c) "Initiation of construction" has the same meaning as
30 in RCW 82.63.010.

31 (~~{4}~~) (d) "Investment project" means an investment in qualified
32 buildings or qualified machinery and equipment, including labor and
33 services rendered in the planning, installation, and construction of
34 the project.

35 (~~{5}~~) (e) "Manufacturing" has the same meaning as provided in
36 RCW 82.04.120.

37 (~~{6}~~) (f) "Person" has the same meaning as provided in RCW
38 82.04.030.

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

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

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

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

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

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

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

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

1 **Part IX**

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

3 NEW SECTION. **Sec. 901.** (1) This section is the tax preference
4 performance statement for the tax preference contained in section
5 902, chapter . . . , Laws of 2017 3rd sp. sess. (section 902 of this
6 act). This performance statement is only intended to be used for
7 subsequent evaluation of the tax preference. It is not intended to
8 create a private right of action by any party or be used to determine
9 eligibility for preferential tax treatment.

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

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

18 (4) To measure the effectiveness of the tax preference in section
19 902, chapter . . . , Laws of 2017 3rd sp. sess. (section 902 of this
20 act) in achieving the specific public policy objective described in
21 subsection (3) of this section, the joint legislative audit and
22 review committee must evaluate this tax preference. In evaluating the
23 tax preference, the joint legislative audit and review committee may
24 refer to data provided to the department of revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 Part X

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

23 **Sec. 1001.** RCW 84.34.108 and 2017 c 323 s 506 are each amended
24 to read as follows:

25 (1) When land has once been classified under this chapter, a
26 notation of the classification must be made each year upon the
27 assessment and tax rolls and the land must be valued pursuant to RCW
28 84.34.060 or 84.34.065 until removal of all or a portion of the
29 classification by the assessor upon occurrence of any of the
30 following:

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

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

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

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

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

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

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

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

37 (3) Within thirty days after the removal of all or a portion of
38 the land from current use classification under subsection (1) of this
39 section, the assessor must notify the owner in writing, setting forth
40 the reasons for the removal. The seller, transferor, or owner may

1 appeal the removal to the county board of equalization in accordance
2 with the provisions of RCW 84.40.038. The removal notice must explain
3 the steps needed to appeal the removal decision, including when a
4 notice of appeal must be filed, where the forms may be obtained, and
5 how to contact the county board of equalization.

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

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

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

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

34 (5) Additional tax, applicable interest, and penalty become a
35 lien on the land. The lien attaches at the time the land is removed
36 from classification under this chapter and has priority to and must
37 be fully paid and satisfied before any recognizance, mortgage,
38 judgment, debt, obligation, or responsibility to or with which the
39 land may become charged or liable. This lien may be foreclosed upon
40 expiration of the same period after delinquency and in the same

1 manner provided by law for foreclosure of liens for delinquent real
2 property taxes as provided in RCW 84.64.050. Any additional tax
3 unpaid on the due date is delinquent as of the due date. From the
4 date of delinquency until paid, interest must be charged at the same
5 rate applied by law to delinquent ad valorem property taxes.

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

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

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

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

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

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

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

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

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

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

38 (j) The creation, sale, or transfer of a conservation easement of
39 private forestlands within unconfined channel migration zones or

1 containing critical habitat for threatened or endangered species
2 under RCW 76.09.040;

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

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

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

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

26 (1) When land has been designated as forestland under RCW
27 84.33.130, a notation of the designation must be made each year upon
28 the assessment and tax rolls. A copy of the notice of approval
29 together with the legal description or assessor's parcel numbers for
30 the land must, at the expense of the applicant, be filed by the
31 assessor in the same manner as deeds are recorded.

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

1 property in the county. Values for the several grades of bare
2 forestland are as follows:

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

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

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

12 (b) Divide the aggregate value of all timber harvested within the
13 state between July 1, 1995, and June 30, 2000, 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 (c) Adjust the forestland values contained in subsection (2) of
17 this section by a percentage equal to one-half of the percentage
18 change in the average values of harvested timber reflected by
19 comparing the resultant values calculated under (a) and (b) of this
20 subsection.

21 (4) For the adjustments to be made on or before December 31,
22 2002, and each succeeding year thereafter, the same procedure
23 described in subsection (3) of this section must be followed using
24 harvester excise tax returns filed under RCW 84.33.074. However, this
25 adjustment must be made to the prior year's adjusted value, and the
26 five-year periods for calculating average harvested timber values
27 must be successively one year more recent.

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

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

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

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

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

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

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

38 (ii) The owner has failed to comply with a final administrative
39 or judicial order with respect to a violation of the restocking,
40 forest management, fire protection, insect and disease control, and

1 forest debris provisions of Title 76 RCW or any applicable rules
2 under Title 76 RCW; or

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

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

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

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

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

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

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

39 (9) Within thirty days after the removal of designation as
40 forestland, the assessor must notify the owner in writing, setting

1 forth the reasons for the removal. The seller, transferor, or owner
2 may appeal the removal to the county board of equalization in
3 accordance with the provisions of RCW 84.40.038.

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

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

36 (12) Compensating tax, together with applicable interest thereon,
37 becomes a lien on the land, which attaches at the time the land is
38 removed from designation as forestland and has priority and must be
39 fully paid and satisfied before any recognizance, mortgage, judgment,
40 debt, obligation, or responsibility to or with which the land may

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

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

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

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

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

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

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

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

38 (g) The creation, sale, or transfer of a conservation easement of
39 private forestlands within unconfined channel migration zones or

1 containing critical habitat for threatened or endangered species
2 under RCW 76.09.040;

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

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

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

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

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

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

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

6 NEW SECTION. **Sec. 1003.** The provisions of RCW 82.32.805 and
7 82.32.808 do not apply to this part.

8 **Part XI**
9 **Modifying Washington's Motion Picture and Film Industries Tax Credit**

10 NEW SECTION. **Sec. 1101.** (1) This section is the tax preference
11 performance statement for the tax preferences contained in section
12 1102, chapter . . . , Laws of 2017 3rd sp. sess. (section 1102 of this
13 act). This performance statement is only intended to be used for
14 subsequent evaluation of the tax preferences. It is not intended to
15 create a private right of action by any party or be used to determine
16 eligibility for preferential tax treatment.

17 (2) The legislature categorizes these tax preferences as ones
18 intended to create or retain jobs as indicated in RCW
19 82.32.808(2)(c).

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

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

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

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

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

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

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

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

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

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

1 the amount of tax due and provide that the tax be paid within thirty
2 days from the date of the notice. The department may not assess
3 penalties and interest as provided in chapter 82.32 RCW on the amount
4 due in the initial notice if the amount due is paid by the due date
5 specified in the notice, or any extension thereof.

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

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

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

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

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

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

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

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

33 (1) "Approved motion picture competitiveness program" means a
34 nonprofit organization under the internal revenue code, section
35 501(c)(6), with the sole purpose of revitalizing the state's
36 economic, cultural, and educational standing in the national and
37 international market of motion picture production and associated
38 creative industries and assisting and providing services for
39 attracting the film industry and associated creative industries, by

1 recommending and awarding financial assistance for costs associated
2 with motion pictures in the state of Washington.

3 (2) "Contribution" means cash contributions.

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

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

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

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

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

26 **Part XII**

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

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

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

37 (i) Purchases for the purpose of resale as tangible personal
38 property in the regular course of business without intervening use by

1 such person, but a purchase for the purpose of resale by a regional
2 transit authority under RCW 81.112.300 is not a sale for resale; or

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

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

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

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

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

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

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

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

39 (a) The installing, repairing, cleaning, altering, imprinting, or
40 improving of tangible personal property of or for consumers,

1 including charges made for the mere use of facilities in respect
2 thereto, but excluding charges made for the use of self-service
3 laundry facilities, and also excluding sales of laundry service to
4 nonprofit health care facilities, and excluding services rendered in
5 respect to live animals, birds and insects;

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

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

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

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

35 (f) The furnishing of lodging and all other services by a hotel,
36 rooming house, tourist court, motel, trailer camp, and the granting
37 of any similar license to use real property, as distinguished from
38 the renting or leasing of real property, and it is presumed that the
39 occupancy of real property for a continuous period of one month or
40 more constitutes a rental or lease of real property and not a mere

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

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

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

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

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

23 (b) Credit bureau services;

24 (c) Automobile parking and storage garage services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (i) Custom software; or

16 (ii) The customization of prewritten computer software.

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

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

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

31 (7) The term also includes the sale of or charge made for an
32 extended warranty to a consumer. For purposes of this subsection,
33 "extended warranty" means an agreement for a specified duration to
34 perform the replacement or repair of tangible personal property at no
35 additional charge or a reduced charge for tangible personal property,
36 labor, or both, or to provide indemnification for the replacement or
37 repair of tangible personal property, based on the occurrence of
38 specified events. The term "extended warranty" does not include an
39 agreement, otherwise meeting the definition of extended warranty in
40 this subsection, if no separate charge is made for the agreement and

1 the value of the agreement is included in the sales price of the
2 tangible personal property covered by the agreement. For purposes of
3 this subsection, "sales price" has the same meaning as in RCW
4 82.08.010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 games, and other entertainment, but does not include parks or zoos
2 for which the primary purpose is the exhibition of wildlife, or
3 fairs, carnivals, and festivals as defined in (b)(i) of this
4 subsection;

5 (v) Batting cage activities;

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

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

14 (viii) Day trips for sightseeing purposes;

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

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

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

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

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

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

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

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

15 (xvii) Paintball and airsoft activities;

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

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

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

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

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

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

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

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

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

26 **Part XIII**

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

28 NEW SECTION. **Sec. 1301.** (1) This section is the tax preference
29 performance statement for the tax preference provided in section
30 1302, chapter . . ., Laws of 2017 3rd sp. sess. (section 1302 of this
31 act). The performance statement is only intended to be used for
32 subsequent evaluation of the tax preference. It is not intended to
33 create a private right of action by any party or be used to determine
34 eligibility for preferential tax treatment.

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

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

5 (4) To measure the effectiveness of the tax preference provided
6 in section 1302, chapter . . . , Laws of 2017 3rd sp. sess. (section
7 1302 of this act) in achieving the specific public policy objective
8 described in subsection (3) of this section, the joint legislative
9 audit and review committee must determine the amount of leasehold
10 excise tax paid by taxpayers claiming the credit under section 1302
11 of this act in comparison to the amount of leasehold excise taxes or
12 property taxes paid by a sample of taxpayers occupying property
13 geographically proximate to taxpayers claiming the credit under
14 section 1302 of this act. The amount of leasehold excise tax or
15 property tax must be expressed in dollars per thousand dollars of
16 assessed value and any other way the joint legislative audit and
17 review committee deems necessary to clearly convey the data.

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

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

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

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

31 (1)(a) After computation of the taxes imposed pursuant to RCW
32 82.29A.030 and 82.29A.040, the following credits are allowed in
33 determining the tax payable:

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

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

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

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

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

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

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

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

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

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

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

1 (v) The credit provided under this subsection (1)(b) may not be
2 claimed for tax reporting periods beginning on or after January 1,
3 2032.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (13) All leasehold interests used to provide organized and
39 supervised recreational activities for persons with disabilities of
40 all ages in a camp facility and for public recreational purposes by a

1 nonprofit organization, association, or corporation that would be
2 exempt from property tax under RCW 84.36.030(1) if it owned the
3 property. If the publicly owned property is used for any taxable
4 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and
5 82.29A.040 (~~shall~~) must be imposed and (~~shall~~) must be
6 apportioned accordingly.

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

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

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

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

37 (18) All leasehold interests in the public or entertainment areas
38 of an amphitheater if a private entity is responsible for one hundred
39 percent of the cost of constructing the amphitheater which is not
40 reimbursed by the public owner, both the public owner and the private

1 lessee sponsor events at the facility on a regular basis, the lessee
2 is responsible under the lease or agreement to operate and maintain
3 the facility, and the amphitheater has a seating capacity of over
4 seventeen thousand reserved and general admission seats and is in a
5 county that had a population of over three hundred fifty thousand,
6 but less than four hundred twenty-five thousand when the amphitheater
7 first opened to the public.

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

22 (19) All leasehold interests in real property used for the
23 placement of military housing meeting the requirements of RCW
24 84.36.665.

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

- 28 (a) Food services for students, faculty, and staff;
29 (b) The operation of a bookstore on campus; or
30 (c) Maintenance, operational, or administrative services to the
31 community college or technical college.

32 NEW SECTION. Sec. 1304. The provisions of RCW 82.32.805 and
33 82.32.808 do not apply to section 1303 of this act.

34 **Part XIV**
35 **Miscellaneous Provisions**

36 NEW SECTION. Sec. 1401. Section 201 of this act expires on the
37 date that section 202 of this act takes effect.

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

5 NEW SECTION. **Sec. 1403.** Sections 401 and 402 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 June 30, 2017.

9 NEW SECTION. **Sec. 1404.** Sections 201, 203, 204, 205, 403, 503,
10 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, and
11 707 of this act and parts I and VIII of this act take effect January
12 1, 2018.

13 NEW SECTION. **Sec. 1405.** Sections 502, 505, 507, 509, 511, 513,
14 515, 517, 519, 521, 523, and 525 of this act expire January 1, 2018.

15 NEW SECTION. **Sec. 1406.** (1) Part I of this act expires January
16 1, 2028, if a review by the joint legislative audit and review
17 committee under section 101 of this act finds that the number of
18 businesses that are a part of main street communities is not equal to
19 or more than the number that were a part of main street communities
20 prior to the enactment of the tax preference in section 103,
21 chapter . . . , Laws of 2017 3rd sp. sess. (section 103 of this act).

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

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

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

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

32 (2) If the contingent expiration date in subsection (1)(b) of
33 this section occurs, the department of revenue must provide written
34 notice of the expiration date of part VII of this act to affected
35 parties, the chief clerk of the house of representatives, the

1 secretary of the senate, the office of the code reviser, and others
2 as deemed appropriate by the department.

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

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

--- END ---