

2SHB 2130 - S AMD 548

By Senators Hobbs, Honeyford

ADOPTED 04/26/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 **Renewable Energy**

5 NEW SECTION. **Sec. 101.** A new section is added to chapter 82.08
6 RCW to read as follows:

7 (1)(a) Except as provided in section 103 of this act, purchasers
8 who have paid the tax imposed by RCW 82.08.020 on machinery and
9 equipment used directly in generating electricity using fuel cells,
10 wind, sun, biomass energy, tidal or wave energy, geothermal resources,
11 anaerobic digestion, technology that converts otherwise lost energy
12 from exhaust, or landfill gas as the principal source of power, or to
13 sales of or charges made for labor and services rendered in respect to
14 installing such machinery and equipment, are eligible for an exemption
15 as provided in this section, but only if the purchaser develops with
16 such machinery, equipment, and labor a facility capable of generating
17 not less than one thousand watts of electricity.

18 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
19 levied by RCW 82.08.020 does not apply to the sale of machinery and
20 equipment described in (a) of this subsection that are used directly in
21 generating electricity or to sales of or charges made for labor and
22 services rendered in respect to installing such machinery and
23 equipment.

24 (c) Beginning on July 1, 2011, through June 30, 2013, the amount of
25 the exemption under this subsection (1) is equal to seventy-five
26 percent of the state and local sales tax paid. The purchaser is
27 eligible for an exemption under this subsection (1)(c) in the form of
28 a remittance.

1 (2) For purposes of this section and section 102 of this act, the
2 following definitions apply:

3 (a) "Biomass energy" includes: (i) Byproducts of pulping and wood
4 manufacturing process; (ii) animal waste; (iii) solid organic fuels
5 from wood; (iv) forest or field residues; (v) wooden demolition or
6 construction debris; (vi) food waste; (vii) liquors derived from algae
7 and other sources; (viii) dedicated energy crops; (ix) biosolids; and
8 (x) yard waste. "Biomass energy" does not include wood pieces that
9 have been treated with chemical preservatives such as creosote,
10 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
11 forests; or municipal solid waste.

12 (b) "Fuel cell" means an electrochemical reaction that generates
13 electricity by combining atoms of hydrogen and oxygen in the presence
14 of a catalyst.

15 (c) "Landfill gas" means biomass fuel, of the type qualified for
16 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal
17 internal revenue code, collected from a "landfill" as defined under RCW
18 70.95.030.

19 (d)(i) "Machinery and equipment" means fixtures, devices, and
20 support facilities that are integral and necessary to the generation of
21 electricity using fuel cells, wind, sun, biomass energy, tidal or wave
22 energy, geothermal resources, anaerobic digestion, technology that
23 converts otherwise lost energy from exhaust, or landfill gas as the
24 principal source of power.

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

33 (3)(a) Machinery and equipment is "used directly" in generating
34 electricity by wind energy, solar energy, biomass energy, tidal or wave
35 energy, geothermal resources, anaerobic digestion, technology that
36 converts otherwise lost energy from exhaust, or landfill gas power if
37 it provides any part of the process that captures the energy of the
38 wind, sun, biomass energy, tidal or wave energy, geothermal resources,

1 anaerobic digestion, technology that converts otherwise lost energy
2 from exhaust, or landfill gas, converts that energy to electricity, and
3 stores, transforms, or transmits that electricity for entry into or
4 operation in parallel with electric transmission and distribution
5 systems.

6 (b) Machinery and equipment is "used directly" in generating
7 electricity by fuel cells if it provides any part of the process that
8 captures the energy of the fuel, converts that energy to electricity,
9 and stores, transforms, or transmits that electricity for entry into or
10 operation in parallel with electric transmission and distribution
11 systems.

12 (4)(a) A purchaser claiming an exemption in the form of a
13 remittance under subsection (1)(c) of this section must pay the tax
14 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
15 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
16 may then apply to the department for remittance in a form and manner
17 prescribed by the department. A purchaser may not apply for a
18 remittance under this section more frequently than once per quarter.
19 The purchaser must specify the amount of exempted tax claimed and the
20 qualifying purchases for which the exemption is claimed. The purchaser
21 must retain, in adequate detail, records to enable the department to
22 determine whether the purchaser is entitled to an exemption under this
23 section, including: Invoices; proof of tax paid; and documents
24 describing the machinery and equipment.

25 (b) The department must determine eligibility under this section
26 based on the information provided by the purchaser, which is subject to
27 audit verification by the department. The department must on a
28 quarterly basis remit exempted amounts to qualifying purchasers who
29 submitted applications during the previous quarter.

30 (5) This section expires July 1, 2013.

31 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.12
32 RCW to read as follows:

33 (1)(a) Except as provided in section 104 of this act, consumers who
34 have paid the tax imposed by RCW 82.12.020 on machinery and equipment
35 used directly in generating electricity using fuel cells, wind, sun,
36 biomass energy, tidal or wave energy, geothermal resources, anaerobic
37 digestion, technology that converts otherwise lost energy from exhaust,

1 or landfill gas as the principal source of power, or to sales of or
2 charges made for labor and services rendered in respect to installing
3 such machinery and equipment, are eligible for an exemption as provided
4 in this section, but only if the purchaser develops with such
5 machinery, equipment, and labor a facility capable of generating not
6 less than one thousand watts of electricity.

7 (b) Beginning on July 1, 2009, through June 30, 2011, the
8 provisions of this chapter do not apply in respect to the use of
9 machinery and equipment described in (a) of this subsection that are
10 used directly in generating electricity or to sales of or charges made
11 for labor and services rendered in respect to installing such machinery
12 and equipment.

13 (c) Beginning on July 1, 2011, through June 30, 2013, the amount of
14 the exemption under this subsection (1) is equal to seventy-five
15 percent of the state and local sales tax paid. The consumer is
16 eligible for an exemption under this subsection (1)(c) in the form of
17 a remittance.

18 (2)(a) A person claiming an exemption in the form of a remittance
19 under subsection (1)(c) of this section must pay the tax imposed by RCW
20 82.12.020 and all applicable local use taxes imposed under the
21 authority of chapters 82.14 and 81.104 RCW. The consumer may then
22 apply to the department for remittance in a form and manner prescribed
23 by the department. A consumer may not apply for a remittance under
24 this section more frequently than once per quarter. The consumer must
25 specify the amount of exempted tax claimed and the qualifying purchases
26 or acquisitions for which the exemption is claimed. The consumer must
27 retain, in adequate detail, records to enable the department to
28 determine whether the consumer is entitled to an exemption under this
29 section, including: Invoices; proof of tax paid; and documents
30 describing the machinery and equipment.

31 (b) The department must determine eligibility under this section
32 based on the information provided by the consumer, which is subject to
33 audit verification by the department. The department must on a
34 quarterly basis remit exempted amounts to qualifying consumers who
35 submitted applications during the previous quarter.

36 (3) Purchases exempt under section 101 of this act are also exempt
37 from the tax imposed under RCW 82.12.020.

1 (4) The definitions in section 101 of this act apply to this
2 section.

3 (5) This section expires June 30, 2013.

4 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.08
5 RCW to read as follows:

6 (1) The tax levied by RCW 82.08.020 does not apply to sales of
7 machinery and equipment used directly in generating electricity using
8 solar energy, or to sales of or charges made for labor and services
9 rendered in respect to installing such machinery and equipment, but
10 only if the purchaser develops with such machinery, equipment, and
11 labor a facility capable of generating not more than ten kilowatts of
12 electricity and provides the seller with an exemption certificate in a
13 form and manner prescribed by the department. The seller must retain
14 a copy of the certificate for the seller's files.

15 (2) For purposes of this section and section 104 of this act:

16 (a) "Machinery and equipment" means industrial fixtures, devices,
17 and support facilities that are integral and necessary to the
18 generation of electricity using solar energy;

19 (b) "Machinery and equipment" does not include: (i) Hand-powered
20 tools; (ii) property with a useful life of less than one year; (iii)
21 repair parts required to restore machinery and equipment to normal
22 working order; (iv) replacement parts that do not increase
23 productivity, improve efficiency, or extend the useful life of
24 machinery and equipment; (v) buildings; or (vi) building fixtures that
25 are not integral and necessary to the generation of electricity that
26 are permanently affixed to and become a physical part of a building;
27 and

28 (c) Machinery and equipment is "used directly" in generating
29 electricity with solar energy if it provides any part of the process
30 that captures the energy of the sun, converts that energy to
31 electricity, and stores, transforms, or transmits that electricity for
32 entry into or operation in parallel with electric transmission and
33 distribution systems.

34 (3) This section expires June 30, 2013.

35 NEW SECTION. **Sec. 104.** A new section is added to chapter 82.12
36 RCW to read as follows:

1 (1) The provisions of this chapter do not apply with respect to
2 machinery and equipment used directly in generating not more than ten
3 kilowatts of electricity using solar energy, or to the use of labor and
4 services rendered in respect to installing such machinery and
5 equipment.

6 (2) The definitions in section 103 of this act apply to this
7 section.

8 (3) This section expires June 30, 2013.

9 NEW SECTION. **Sec. 105.** A new section is added to chapter 82.14
10 RCW to read as follows:

11 The exemptions in sections 101 through 104 of this act are for the
12 state and local sales and use taxes and include the sales and use taxes
13 imposed under the authority of this chapter.

14 **Sec. 106.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to
15 read as follows:

16 (1) Cities that operate transit systems, county transportation
17 authorities, metropolitan municipal corporations, public transportation
18 benefit areas, and regional transit authorities may submit an
19 authorizing proposition to the voters and if approved by a majority of
20 persons voting, fix and impose a sales and use tax in accordance with
21 the terms of this chapter, solely for the purpose of providing high
22 capacity transportation service.

23 (2) The tax authorized pursuant to this section shall be in
24 addition to the tax authorized by RCW 82.14.030 and shall be collected
25 from those persons who are taxable by the state pursuant to chapters
26 82.08 and 82.12 RCW upon the occurrence of any taxable event within the
27 taxing district. The maximum rate of such tax shall be approved by the
28 voters and shall not exceed one percent of the selling price (in the
29 case of a sales tax) or value of the article used (in the case of a use
30 tax). The maximum rate of such tax that may be imposed shall not
31 exceed nine-tenths of one percent in any county that imposes a tax
32 under RCW 82.14.340, or within a regional transit authority if any
33 county within the authority imposes a tax under RCW 82.14.340.

34 (3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the
35 state portion of the sales and use tax and do not extend to the tax
36 authorized in this section.

1 (b) The exemptions in sections 101 and 102 of this act are for the
2 state and local sales and use taxes and include the tax authorized by
3 this section.

4 **Sec. 107.** RCW 82.14.050 and 2005 c 336 s 20 are each amended to
5 read as follows:

6 (1) The counties, cities, and transportation authorities under RCW
7 82.14.045, public facilities districts under chapters 36.100 and 35.57
8 RCW, public transportation benefit areas under RCW 82.14.440, regional
9 transportation investment districts, and transportation benefit
10 districts under chapter 36.73 RCW shall contract, prior to the
11 effective date of a resolution or ordinance imposing a sales and use
12 tax, the administration and collection to the state department of
13 revenue, which shall deduct a percentage amount, as provided by
14 contract, not to exceed two percent of the taxes collected for
15 administration and collection expenses incurred by the department. The
16 remainder of any portion of any tax authorized by this chapter that is
17 collected by the department of revenue shall be deposited by the state
18 department of revenue in the local sales and use tax account hereby
19 created in the state treasury. Moneys in the local sales and use tax
20 account may be (~~spent~~) withdrawn only for:

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

25 (b) Making refunds of taxes imposed under the authority of this
26 chapter and RCW 81.104.170 and exempted under sections 101 and 102 of
27 this act.

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

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

36 (4) Except as provided in RCW 43.08.190, all earnings of
37 investments of balances in the local sales and use tax account shall be

1 credited to the local sales and use tax account and distributed to the
2 counties, cities, transportation authorities, public facilities
3 districts, public transportation benefit areas, regional transportation
4 investment districts, and transportation benefit districts monthly.

5 **Sec. 108.** RCW 82.14.060 and 2005 c 336 s 21 are each amended to
6 read as follows:

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

- 12 (i) The deduction provided for in RCW 82.14.050; and
- 13 (ii) The amount of any refunds of local sales and use taxes
14 exempted under sections 101 and 102 of this act, which must be made
15 without appropriation.

16 (b) The state treasurer shall make the distribution under this
17 section without appropriation.

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

23 NEW SECTION. **Sec. 109.** A new section is added to chapter 82.12
24 RCW to read as follows:

25 (1) Except as provided in subsection (2) of this section, the
26 expiration of RCW 82.12.02567 and section 102 of this act do not
27 require the payment of, or authorize the department to assess, use tax
28 imposed by or under the authority of RCW 82.12.020, 81.104.170, and
29 chapter 82.14 RCW, on the use of machinery and equipment, and labor and
30 services rendered in respect to installing such machinery and
31 equipment, if such use qualified for the exemption under RCW
32 82.12.02567 or section 102 of this act immediately preceding the
33 expiration date of the applicable exemption under RCW 82.12.02567 or
34 section 102 of this act.

35 (2) Subsection (1) of this section does not prohibit the department
36 from assessing, subject to the limitations period in RCW 82.32.050,

1 state and local use taxes on the use of machinery and equipment, and
2 labor and services rendered in respect to installing such machinery and
3 equipment, if, before the expiration of the applicable exemption
4 provided in RCW 82.12.02567 or section 102 of this act, the machinery
5 and equipment was put to a use that is outside of the scope of the
6 applicable exemption in RCW 82.12.02567 or section 102 of this act.

7 **PART II**

8 **Radioactive Waste Cleanup**

9 NEW SECTION. **Sec. 201.** (1) The legislature finds that the
10 cleaning up of radioactive waste at the Hanford site is crucial to the
11 environment in this state. The legislature intends to include services
12 supporting the cleanup within the radioactive waste clean-up business
13 and occupation tax classification, but it is not the legislature's
14 intent to extend the radioactive waste clean-up classification to all
15 business activities conducted at the Hanford site or performed for
16 persons engaged in the performance of cleanup.

17 (2) It is the legislature's intent in enacting this legislation to
18 ensure that the radioactive waste clean-up business and occupation tax
19 classification applies to all services contributing to the performance
20 of a clean-up project at the Hanford site other than services that are
21 routinely provided to any business, including businesses that are not
22 engaged in clean-up activities.

23 **Sec. 202.** RCW 82.04.263 and 1996 c 112 s 3 are each amended to
24 read as follows:

25 (1) Upon every person engaging within this state in the business of
26 cleaning up for the United States, or its instrumentalities,
27 radioactive waste and other by-products of weapons production and
28 nuclear research and development; as to such persons the amount of the
29 tax with respect to such business shall be equal to the ((value of
30 the)) gross income of the business multiplied by the rate of 0.471
31 percent.

32 (2) For the purposes of this chapter, "cleaning up radioactive
33 waste and other by-products of weapons production and nuclear research
34 and development" means:

1 (a) The activities of handling, storing, treating, immobilizing,
2 stabilizing, or disposing of radioactive waste, radioactive tank waste
3 and capsules, nonradioactive hazardous solid and liquid wastes, or
4 spent nuclear fuel;

5 (b) Spent nuclear fuel conditioning;

6 (c) Removal of contamination in soils and groundwater;

7 (d) Decontamination and decommissioning of facilities; and
8 ((activities integral and necessary to the direct performance of
9 cleanup)) (e) Services supporting the performance of cleanup. For the
10 purposes of this subsection (2)(e), a service supports the performance
11 of cleanup if it:

12 (i) Is within the scope of work under a clean-up contract with the
13 United States department of energy; or

14 (ii) Assists in the accomplishment of a requirement of a clean-up
15 project undertaken by the United States department of energy under a
16 subcontract entered into with the prime contractor or another
17 subcontractor in furtherance of a clean-up contract between the United
18 States department of energy and a prime contractor.

19 (3) A service does not assist in the accomplishment of a
20 requirement of a clean-up project undertaken by the United States
21 department of energy if the same services are routinely provided to
22 businesses not engaged in clean-up activities, except that the
23 following services are always deemed to contribute to the
24 accomplishment of a requirement of a clean-up project undertaken by the
25 United States department of energy:

26 (a) Information technology and computer support services;

27 (b) Services rendered in respect to infrastructure; and

28 (c) Security, safety, and health services.

29 (4) The legislature intends that the examples provided in this
30 subsection be used as a guideline when determining whether a service is
31 "routinely provided to businesses not engaged in clean-up activities"
32 as that phrase is used in subsection (3) of this section.

33 (a) The radioactive waste clean-up classification does not apply to
34 general accounting services but does apply to performance audits
35 performed for persons cleaning up radioactive waste.

36 (b) The radioactive waste clean-up classification does not apply to
37 general legal services but does apply to those legal services that
38 assist in the accomplishment of a requirement of a clean-up project

1 undertaken by the United States department of energy. Thus, legal
2 services provided to contest any local, state, or federal tax liability
3 or to defend a company against a workers' compensation claim arising
4 from a worksite injury do not qualify for the radioactive waste clean-
5 up classification. But, legal services related to the resolution of a
6 contractual dispute between the parties to a clean-up contract between
7 the United States department of energy and a prime contractor do
8 qualify.

9 (c) General office janitorial services do not qualify for the
10 radioactive waste clean-up classification, but the specialized cleaning
11 of equipment exposed to radioactive waste does qualify.

12 **PART III**

13 **Hog Fuel Tax Relief**

14 NEW SECTION. Sec. 301. A new section is added to chapter 82.08
15 RCW to read as follows:

16 (1) The tax levied by RCW 82.08.020 does not apply to sales of hog
17 fuel used to produce electricity, steam, heat, or biofuel. This
18 exemption is available only if the buyer provides the seller with an
19 exemption certificate in a form and manner prescribed by the
20 department. The seller must retain a copy of the certificate for the
21 seller's files.

22 (2) For the purposes of this section the following definitions
23 apply:

24 (a) "Hog fuel" means wood waste and other wood residuals including
25 forest derived biomass. "Hog fuel" does not include firewood or wood
26 pellets; and

27 (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

28 (3) This section expires June 30, 2013.

29 NEW SECTION. Sec. 302. A new section is added to chapter 82.12
30 RCW to read as follows:

31 (1) The provisions of this chapter do not apply with respect to the
32 use of hog fuel for production of electricity, steam, heat, or biofuel.

33 (2) For the purposes of this section:

34 (a) "Hog fuel" has the same meaning as provided in section 301 of
35 this act; and

1 (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

2 (3) This section expires June 30, 2013.

3 **PART IV**

4 **Biomass Energy Incentives**

5 NEW SECTION. **Sec. 401.** A new section is added to chapter 82.04
6 RCW to read as follows:

7 (1) In computing the tax imposed under this chapter, harvesters are
8 allowed a credit against the amount of tax otherwise due under this
9 chapter, as provided in this section. The credit per harvested green
10 ton of forest derived biomass sold, transferred, or used for production
11 of electricity, steam, heat, or biofuel is as follows:

12 (a) For forest derived biomass harvested October 1, 2009, through
13 June 30, 2010, zero dollars;

14 (b) For forest derived biomass harvested July 1, 2010, through June
15 30, 2013, three dollars;

16 (c) For forest derived biomass harvested July 1, 2013, through June
17 30, 2015, five dollars.

18 (2) Credit may not be claimed for forest derived biomass sold,
19 transferred, or used before the effective date of this section. The
20 amount of credit allowed for a reporting period may not exceed the tax
21 otherwise due under this chapter for that reporting period. Any unused
22 excess credit in a reporting period may be carried forward to future
23 reporting periods for a maximum of two years.

24 (3) For the purposes of this section, "harvested" and "harvesters"
25 are defined in RCW 84.33.035, and "biofuel" is defined in RCW
26 43.325.010.

27 (4) This section expires June 30, 2015.

28 NEW SECTION. **Sec. 402.** A new section is added to chapter 82.08
29 RCW to read as follows:

30 (1) The tax levied by RCW 82.08.020 does not apply to sales of
31 forest derived biomass used to produce electricity, steam, heat, or
32 biofuel. This exemption is available only if the buyer provides the
33 seller with an exemption certificate in a form and manner prescribed by
34 the department. The seller must retain a copy of the certificate for
35 the seller's files.

1 (2) For purposes of this section, "biofuel" is defined in RCW
2 43.325.010.

3 (3) This section expires June 30, 2013.

4 NEW SECTION. **Sec. 403.** A new section is added to chapter 82.12
5 RCW to read as follows:

6 (1) The provisions of this chapter do not apply with respect to the
7 use of forest derived biomass for production of electricity, steam,
8 heat, or biofuel.

9 (2) For purposes of this section, "biofuel" is defined in RCW
10 43.325.010.

11 (3) This section expires June 30, 2013.

12 **PART V**

13 **Solar Energy Incentives**

14 **Sec. 501.** RCW 82.04.294 and 2007 c 54 s 8 are each amended to read
15 as follows:

16 (1)(a) Beginning October 1, 2005, upon every person engaging within
17 this state in the business of manufacturing solar energy systems using
18 photovoltaic modules, or of manufacturing solar grade silicon to be
19 used exclusively in components of such systems; as to such persons the
20 amount of tax with respect to such business shall, in the case of
21 manufacturers, be equal to the value of the product manufactured, or in
22 the case of processors for hire, be equal to the gross income of the
23 business, multiplied by the rate of 0.2904 percent.

24 (b) Beginning October 1, 2009, upon every person engaging within
25 this state in the business of manufacturing solar energy systems using
26 photovoltaic modules, or of manufacturing solar grade silicon, silicon
27 solar wafers, silicon solar cells, thin film solar devices, or compound
28 semiconductor solar wafers to be used exclusively in components of such
29 systems; as to such persons the amount of tax with respect to such
30 business is, in the case of manufacturers, equal to the value of the
31 product manufactured, or in the case of processors for hire, equal to
32 the gross income of the business, multiplied by the rate of 0.275
33 percent.

34 (2)(a) Beginning October 1, 2005, upon every person engaging within
35 this state in the business of making sales at wholesale of solar energy

1 systems using photovoltaic modules, or of solar grade silicon to be
2 used exclusively in components of such systems, manufactured by that
3 person; as to such persons the amount of tax with respect to such
4 business shall be equal to the gross proceeds of sales of the solar
5 energy systems using photovoltaic modules, or of the solar grade
6 silicon to be used exclusively in components of such systems,
7 multiplied by the rate of 0.2904 percent.

8 (b) Beginning October 1, 2009, upon every person engaging within
9 this state in the business of making sales at wholesale of solar energy
10 systems using photovoltaic modules, or of solar grade silicon, silicon
11 solar wafers, silicon solar cells, thin film solar devices, or compound
12 semiconductor solar wafers to be used exclusively in components of such
13 systems, manufactured by that person; as to such persons the amount of
14 tax with respect to such business is equal to the gross proceeds of
15 sales of the solar energy systems using photovoltaic modules, or of the
16 solar grade silicon to be used exclusively in components of such
17 systems, multiplied by the rate of 0.275 percent.

18 (3) Beginning October 1, 2009, silicon solar wafers, silicon solar
19 cells, thin film solar devices, or compound semiconductor solar wafers
20 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
21 82.12.9651.

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

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

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

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

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

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

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

1 ~~((d))~~ (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 ~~((4))~~ (h) "Thin film solar devices" means a nonparticipating
6 substrate on which various semiconducting materials are deposited to
7 produce a photovoltaic cell that is used to generate electricity.

8 (5) This section expires June 30, 2014.

9 **Sec. 502.** RCW 82.08.9651 and 2006 c 84 s 3 are each amended to
10 read as follows:

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

23 (2) A person taking the exemption under this section must report
24 under RCW 82.32.5351. No application is necessary for the tax
25 exemption. The person is subject to all of the requirements of chapter
26 82.32 RCW.

27 (3) This section expires twelve years after December 1, 2006.

28 **Sec. 503.** RCW 82.12.9651 and 2006 c 84 s 4 are each amended to
29 read as follows:

30 (1) The provisions of this chapter do not apply with respect to the
31 use of gases and chemicals used by a manufacturer or processor for hire
32 in the production of semiconductor materials. This exemption is
33 limited to gases and chemicals used in the production process to grow
34 the product, deposit or grow permanent or sacrificial layers on the
35 product, to etch or remove material from the product, to anneal the
36 product, to immerse the product, to clean the product, and other such

1 uses whereby the gases and chemicals come into direct contact with the
2 product during the production process, or uses of gases and chemicals
3 to clean the chambers and other like equipment in which such processing
4 takes place. For purposes of this section, "semiconductor materials"
5 has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

6 (2) A person taking the exemption under this section must report
7 under RCW 82.32.5351. No application is necessary for the tax
8 exemption. The person is subject to all of the requirements of chapter
9 82.32 RCW.

10 (3) This section expires twelve years after December 1, 2006.

11 **Sec. 504.** RCW 82.16.110 and 2005 c 300 s 2 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1)(a) "Community solar project" means:

16 (i) A solar energy system owned by local individuals, households,
17 nonprofit organizations, or nonutility businesses that is placed on the
18 property owned by a cooperating local governmental entity that is not
19 in the light and power business or in the gas distribution business; or

20 (ii) A utility-owned solar energy system that is voluntarily funded
21 by the utility's ratepayers where, in exchange for their financial
22 support, the utility gives contributors a payment or credit on their
23 utility bill for the value of the electricity produced by the project.

24 (b) For the purposes of "community solar project" as defined in (a)
25 of this subsection:

26 (i) "Nonprofit organization" means an organization exempt from
27 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
28 revenue code of 1986, as amended, as of January 1, 2009; and

29 (ii) "Utility" means a light and power business, an electric
30 cooperative, or a mutual corporation that provides electricity service.

31 (2) "Customer-generated electricity" means a community solar
32 project or the alternating current electricity that is generated from
33 a renewable energy system located on an individual's, businesses', or
34 local government's real property that is also provided electricity
35 generated by a light and power business. Except for community solar
36 projects, a system located on a leasehold interest does not qualify
37 under this definition. "Customer-generated electricity" does not

1 include electricity generated by a light and power business with
2 greater than one thousand megawatt hours of annual sales or a gas
3 distribution business.

4 ((+2)) (3) "Economic development kilowatt-hour" means the actual
5 kilowatt-hour measurement of customer-generated electricity multiplied
6 by the appropriate economic development factor.

7 ((+3)) (4) "Local governmental entity" means any unit of local
8 government of this state including, but not limited to, counties,
9 cities, towns, municipal corporations, quasi-municipal corporations,
10 special purpose districts, and school districts.

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

13 ((+4)) (6) "Renewable energy system" means a solar energy system,
14 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
15 used for producing electricity.

16 ((+5)) (7) "Solar energy system" means any device or combination
17 of devices or elements that rely upon direct sunlight as an energy
18 source for use in the generation of electricity.

19 ((+6)) (8) "Solar inverter" means the device used to convert
20 direct current to alternating current in a photovoltaic cell system.

21 ((+7)) (9) "Solar module" means the smallest nondivisible self-
22 contained physical structure housing interconnected photovoltaic cells
23 and providing a single direct current electrical output.

24 ~~((+8)) "Standards for interconnection to the electric distribution~~
25 ~~system" means technical, engineering, operational, safety, and~~
26 ~~procedural requirements for interconnection to the electric~~
27 ~~distribution system of a light and power business.))~~

28 **Sec. 505.** RCW 82.16.120 and 2007 c 111 s 101 are each amended to
29 read as follows:

30 (1) Any individual, business, ~~((or))~~ local governmental entity, not
31 in the light and power business or in the gas distribution business, or
32 a participant in a community solar project may apply to the light and
33 power business serving the situs of the system, each fiscal year
34 beginning on July 1, 2005, for an investment cost recovery incentive
35 for each kilowatt-hour from a customer-generated electricity renewable
36 energy system ~~((installed on its property that is not interconnected to~~

1 ~~the electric distribution system~~). No incentive may be paid for
2 kilowatt-hours generated before July 1, 2005, or after June 30,
3 ~~((2014))~~ 2020.

4 ~~(2) ((When light and power businesses serving eighty percent of the~~
5 ~~total customer load in the state adopt uniform standards for~~
6 ~~interconnection to the electric distribution system, any individual,~~
7 ~~business, or local governmental entity, not in the light and power~~
8 ~~business or in the gas distribution business, may apply to the light~~
9 ~~and power business serving the situs of the system, each fiscal year,~~
10 ~~for an investment cost recovery incentive for each kilowatt hour from~~
11 ~~a customer-generated electricity renewable energy system installed on~~
12 ~~its property that is not interconnected to the electric distribution~~
13 ~~system and from a customer-generated electricity renewable energy~~
14 ~~system installed on its property that is interconnected to the electric~~
15 ~~distribution system. Uniform standards for interconnection to the~~
16 ~~electric distribution system means those standards established by light~~
17 ~~and power businesses that have ninety percent of total requirements the~~
18 ~~same. No incentive may be paid for kilowatt-hours generated before~~
19 ~~July 1, 2005, or after June 30, 2014.~~

20 ~~(3))~~(a) Before submitting for the first time the application for
21 the incentive allowed under subsection (4) of this section, the
22 applicant ~~((shall))~~ must submit to the department of revenue and to the
23 climate and rural energy development center at the Washington State
24 University, established under RCW 28B.30.642, a certification in a form
25 and manner prescribed by the department that includes, but is not
26 limited to, the following information:

27 (i) The name and address of the applicant and location of the
28 renewable energy system;

29 (ii) The applicant's tax registration number;

30 (iii) That the electricity produced by the applicant meets the
31 definition of "customer-generated electricity" and that the renewable
32 energy system produces electricity with:

33 (A) Any solar inverters and solar modules manufactured in
34 Washington state;

35 (B) A wind generator powered by blades manufactured in Washington
36 state;

37 (C) A solar inverter manufactured in Washington state;

38 (D) A solar module manufactured in Washington state; or

1 (E) Solar or wind equipment manufactured outside of Washington
2 state;

3 (iv) That the electricity can be transformed or transmitted for
4 entry into or operation in parallel with electricity transmission and
5 distribution systems;

6 (v) The date that the renewable energy system received its final
7 electrical permit from the applicable local jurisdiction.

8 (b) Within thirty days of receipt of the certification the
9 department of revenue (~~shall~~) must notify the applicant by mail, or
10 electronically as provided in RCW 82.32.135, whether the renewable
11 energy system qualifies for an incentive under this section. The
12 department may consult with the climate and rural energy development
13 center to determine eligibility for the incentive. System
14 certifications and the information contained therein are subject to
15 disclosure under RCW 82.32.330(3)(m).

16 (~~(+4)~~) (3)(a) By August 1st of each year application for the
17 incentive shall be made to the light and power business serving the
18 situs of the system by certification in a form and manner prescribed by
19 the department that includes, but is not limited to, the following
20 information:

21 (i) The name and address of the applicant and location of the
22 renewable energy system;

23 (ii) The applicant's tax registration number;

24 (iii) The date of the notification from the department of revenue
25 stating that the renewable energy system is eligible for the incentives
26 under this section;

27 (iv) A statement of the amount of kilowatt-hours generated by the
28 renewable energy system in the prior fiscal year.

29 (b) Within sixty days of receipt of the incentive certification the
30 light and power business serving the situs of the system shall notify
31 the applicant in writing whether the incentive payment will be
32 authorized or denied. The business may consult with the climate and
33 rural energy development center to determine eligibility for the
34 incentive payment. Incentive certifications and the information
35 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

36 (c)(i) Persons receiving incentive payments shall keep and
37 preserve, for a period of five years, suitable records as may be
38 necessary to determine the amount of incentive applied for and

1 received. Such records shall be open for examination at any time upon
2 notice by the light and power business that made the payment or by the
3 department. If upon examination of any records or from other
4 information obtained by the business or department it appears that an
5 incentive has been paid in an amount that exceeds the correct amount of
6 incentive payable, the business may assess against the person for the
7 amount found to have been paid in excess of the correct amount of
8 incentive payable and shall add thereto interest on the amount.
9 Interest shall be assessed in the manner that the department assesses
10 interest upon delinquent tax under RCW 82.32.050.

11 (ii) If it appears that the amount of incentive paid is less than
12 the correct amount of incentive payable the business may authorize
13 additional payment.

14 ~~((+5))~~ (4) Except for community solar projects, the investment
15 cost recovery incentive may be paid fifteen cents per economic
16 development kilowatt-hour unless requests exceed the amount authorized
17 for credit to the participating light and power business. For
18 community solar projects, the investment cost recovery incentive may be
19 paid thirty cents per economic development kilowatt-hour unless
20 requests exceed the amount authorized for credit to the participating
21 light and power business. For the purposes of this section, the rate
22 paid for the investment cost recovery incentive may be multiplied by
23 the following factors:

24 (a) For customer-generated electricity produced using solar modules
25 manufactured in Washington state, two and four-tenths;

26 (b) For customer-generated electricity produced using a solar or a
27 wind generator equipped with an inverter manufactured in Washington
28 state, one and two-tenths;

29 (c) For customer-generated electricity produced using an anaerobic
30 digester, or by other solar equipment or using a wind generator
31 equipped with blades manufactured in Washington state, one; and

32 (d) For all other customer-generated electricity produced by wind,
33 eight-tenths.

34 ~~((+6))~~ (5) No individual, household, business, or local
35 governmental entity is eligible for incentives provided under
36 subsection (4) of this section for more than ~~((two))~~ five thousand
37 dollars per year. Each applicant in a community solar project is
38 eligible for up to five thousand dollars per year.

1 ((+7)) (6) If requests for the investment cost recovery incentive
2 exceed the amount of funds available for credit to the participating
3 light and power business, the incentive payments shall be reduced
4 proportionately.

5 ((+8)) (7) The climate and rural energy development center at
6 Washington State University energy program may establish guidelines and
7 standards for technologies that are identified as Washington
8 manufactured and therefore most beneficial to the state's environment.

9 ((+9)) (8) The environmental attributes of the renewable energy
10 system belong to the applicant, and do not transfer to the state or the
11 light and power business upon receipt of the investment cost recovery
12 incentive.

13 **Sec. 506.** RCW 82.16.130 and 2005 c 300 s 4 are each amended to
14 read as follows:

15 (1) A light and power business shall be allowed a credit against
16 taxes due under this chapter in an amount equal to investment cost
17 recovery incentive payments made in any fiscal year under RCW
18 82.16.120. The credit shall be taken in a form and manner as required
19 by the department. The credit under this section for the fiscal year
20 ((shall)) may not exceed ((~~twenty-five one-hundredths of~~)) one percent
21 of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or
22 ((~~twenty-five~~)) one hundred thousand dollars, whichever is greater.
23 Incentive payments to participants in a utility-owned community solar
24 project as defined in RCW 82.16.110(1)(a)(ii) may only account for up
25 to twenty-five percent of the total allowable credit. The credit may
26 not exceed the tax that would otherwise be due under this chapter.
27 Refunds shall not be granted in the place of credits. Expenditures not
28 used to earn a credit in one fiscal year may not be used to earn a
29 credit in subsequent years.

30 (2) For any business that has claimed credit for amounts that
31 exceed the correct amount of the incentive payable under RCW 82.16.120,
32 the amount of tax against which credit was claimed for the excess
33 payments shall be immediately due and payable. The department shall
34 assess interest but not penalties on the taxes against which the credit
35 was claimed. Interest shall be assessed at the rate provided for
36 delinquent excise taxes under chapter 82.32 RCW, retroactively to the

1 date the credit was claimed, and shall accrue until the taxes against
2 which the credit was claimed are repaid.

3 (3) The right to earn tax credits under this section expires June
4 30, (~~(2015)~~) 2020. Credits may not be claimed after June 30, (~~(2016)~~)
5 2021.

6 **PART VI**

7 **Livestock Nutrient Incentives**

8 **Sec. 601.** RCW 82.08.890 and 2006 c 151 s 2 are each amended to
9 read as follows:

10 (1) The tax levied by RCW 82.08.020 does not apply to sales to
11 eligible persons of:

12 (a) Qualifying livestock nutrient management equipment;

13 (b) Labor and services rendered in respect to installing,
14 repairing, cleaning, altering, or improving qualifying livestock
15 nutrient management equipment; and

16 (c)(i) Labor and services rendered in respect to (~~operating,~~)
17 repairing, cleaning, altering, or improving of qualifying livestock
18 nutrient management (~~equipment and~~) facilities, or to (~~sales of~~)
19 tangible personal property that becomes an ingredient or component of
20 (~~the equipment and~~) qualifying livestock nutrient management
21 facilities in the course of repairing, cleaning, altering, or improving
22 of such facilities.

23 (ii) The exemption provided in this subsection (1)(c) does not
24 apply to the sale of or charge made for: (A) Labor and services
25 rendered in respect to the constructing of new, or replacing previously
26 existing, qualifying livestock nutrient management facilities; or (B)
27 tangible personal property that becomes an ingredient or component of
28 qualifying livestock nutrient management facilities during the course
29 of constructing new, or replacing previously existing, qualifying
30 livestock nutrient management facilities.

31 ~~(2)((a) To be eligible, the equipment and facilities must be used~~
32 ~~exclusively for activities necessary to maintain a livestock nutrient~~
33 ~~management plan.~~

34 ~~(b))~~ The exemption provided in subsection (1) of this section
35 applies to sales made after the livestock nutrient management plan is:

1 ((+i+)) (a) Certified under chapter 90.64 RCW; ((+ii+)) (b) approved as
2 part of the permit issued under chapter 90.48 RCW; or ((+iii+)) (c)
3 approved as required under subsection (4)(c)(iii) of this section.

4 (3)(a) The department of revenue must provide an exemption
5 certificate to an eligible person upon application by that person. The
6 department of agriculture must provide a list of eligible persons, as
7 defined in subsection (4)(c)(i) and (ii) of this section, to the
8 department of revenue. Conservation districts must maintain lists of
9 eligible persons as defined in subsection (4)(c)(iii) of this section
10 to allow the department of revenue to verify eligibility. The
11 application must be in a form and manner prescribed by the department
12 and must contain information regarding the location of the dairy or
13 animal feeding operation and other information the department may
14 require.

15 (b) A person claiming an exemption under this section must keep
16 records necessary for the department to verify eligibility under this
17 section. The exemption is available only when the buyer provides the
18 seller with an exemption certificate in a form and manner prescribed by
19 the department. The seller must retain a copy of the certificate for
20 the seller's files.

21 (4) The definitions in this subsection apply to this section and
22 RCW 82.12.890 unless the context clearly requires otherwise:

23 (a) "Animal feeding operation" means a lot or facility, other than
24 an aquatic animal production facility, where the following conditions
25 are met:

26 (i) Animals, other than aquatic animals, have been, are, or will be
27 stabled or confined and fed or maintained for a total of forty-five
28 days or more in any twelve-month period; and

29 (ii) Crops, vegetation, forage growth, or postharvest residues are
30 not sustained in the normal growing season over any portion of the lot
31 or facility.

32 (b) "Conservation district" means a subdivision of state government
33 organized under chapter 89.08 RCW.

34 (c) "Eligible person" means a person: (i) Licensed to produce milk
35 under chapter 15.36 RCW who has a certified dairy nutrient management
36 plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding
37 operation and has a permit issued under chapter 90.48 RCW; or (iii) who
38 owns an animal feeding operation and has a nutrient management plan

1 approved by a conservation district as meeting natural resource
2 conservation service field office technical guide standards and who
3 possesses an exemption certificate under RCW 82.08.855.

4 (~~(d) ("Livestock nutrient management equipment and facilities"~~
5 ~~means machinery, equipment, and structures used in the handling and~~
6 ~~treatment of livestock manure, such as aerators, agitators, alley~~
7 ~~scrapers, augers, dams, gutter cleaners, loaders, lagoons, pipes,~~
8 ~~pumps, separators, and tanks. The term also includes tangible personal~~
9 ~~property that becomes an ingredient or component of the equipment and~~
10 ~~facilities, including repair and replacement parts)) "Handling and
11 treatment of livestock manure" means the activities of collecting,
12 storing, moving, or transporting livestock manure, separating livestock
13 manure solids from liquids, or applying livestock manure to the
14 agricultural lands of an eligible person other than through the use of
15 pivot or linear type traveling irrigation systems.~~

16 (e) "Permit" means either a state waste discharge permit or a
17 national pollutant discharge elimination system permit, or both.

18 (f) "Qualifying livestock nutrient management equipment" means the
19 following tangible personal property for exclusive use in the handling
20 and treatment of livestock manure, including repair and replacement
21 parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers;
22 (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler
23 irrigation systems; (vii) lagoon and pond liners and floating covers;
24 (viii) loaders; (ix) manure composting devices; (x) manure spreaders;
25 (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry
26 house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry
27 house washers; (xvi) poultry litter saver machines; (xvii) pipes;
28 (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors
29 and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

30 (g) "Qualifying livestock nutrient management facilities" means the
31 following structures and facilities for exclusive use in the handling
32 and treatment of livestock manure: (i) Flush systems; (ii) lagoons;
33 (iii) liquid livestock manure storage structures, such as concrete
34 tanks or glass-lined steel tanks; and (iv) structures used solely for
35 the dry storage of manure, including roofed stacking facilities.

36 **Sec. 602.** RCW 82.12.890 and 2006 c 151 s 3 are each amended to
37 read as follows:

1 (1) The provisions of this chapter do not apply with respect to the
2 use by an eligible person of (~~tangible personal property that becomes~~
3 ~~an ingredient or component of livestock nutrient management equipment~~
4 ~~and facilities, as defined in RCW 82.08.890, or to labor and services~~
5 ~~rendered in respect to repairing, cleaning, altering, or improving~~
6 ~~eligible tangible personal property~~);

7 (a) Qualifying livestock nutrient management equipment;

8 (b) Labor and services rendered in respect to installing,
9 repairing, cleaning, altering, or improving qualifying livestock
10 nutrient management equipment; and

11 (c)(i) Tangible personal property that becomes an ingredient or
12 component of qualifying livestock nutrient management facilities in the
13 course of repairing, cleaning, altering, or improving of such
14 facilities.

15 (ii) The exemption provided in this subsection (1)(c) does not
16 apply to the use of tangible personal property that becomes an
17 ingredient or component of qualifying livestock nutrient management
18 facilities during the course of constructing new, or replacing
19 previously existing, qualifying livestock nutrient management
20 facilities.

21 (2)(a) To be eligible, the equipment and facilities must be used
22 exclusively for activities necessary to maintain a livestock nutrient
23 management plan.

24 (b) The exemption applies to the use of tangible personal property
25 (~~or~~) and labor and services made after the livestock nutrient
26 management plan is: (i) Certified under chapter 90.64 RCW; (ii)
27 approved as part of the permit issued under chapter 90.48 RCW; or (iii)
28 approved as required under RCW 82.08.890(4)(c)(iii).

29 (3) The exemption certificate and recordkeeping requirements of RCW
30 82.08.890 apply to this section. The definitions in RCW 82.08.890
31 apply to this section.

32 **PART VII**
33 **Log Trucks**

34 **Sec. 701.** RCW 82.16.010 and 2007 c 6 s 1023 are each amended to
35 read as follows:

1 For the purposes of this chapter, unless otherwise required by the
2 context:

3 (1) "Railroad business" means the business of operating any
4 railroad, by whatever power operated, for public use in the conveyance
5 of persons or property for hire. It shall not, however, include any
6 business herein defined as an urban transportation business.

7 (2) "Express business" means the business of carrying property for
8 public hire on the line of any common carrier operated in this state,
9 when such common carrier is not owned or leased by the person engaging
10 in such business.

11 (3) "Railroad car business" means the business of operating stock
12 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
13 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
14 other kinds of cars used for transportation of property or persons upon
15 the line of any railroad operated in this state when such railroad is
16 not owned or leased by the person engaging in such business.

17 (4) "Water distribution business" means the business of operating
18 a plant or system for the distribution of water for hire or sale.

19 (5) "Light and power business" means the business of operating a
20 plant or system for the generation, production or distribution of
21 electrical energy for hire or sale and/or for the wheeling of
22 electricity for others.

23 (6) "Telegraph business" means the business of affording
24 telegraphic communication for hire.

25 (7) "Gas distribution business" means the business of operating a
26 plant or system for the production or distribution for hire or sale of
27 gas, whether manufactured or natural.

28 (8) "Motor transportation business" means the business (except
29 urban transportation business) of operating any motor propelled vehicle
30 by which persons or property of others are conveyed for hire, and
31 includes, but is not limited to, the operation of any motor propelled
32 vehicle as an auto transportation company (except urban transportation
33 business), common carrier or contract carrier as defined by RCW
34 81.68.010 and 81.80.010(~~(+—PROVIDED, That)~~). However, "motor
35 transportation business" shall not mean or include: (a) A log
36 transportation business; or (b) the transportation of logs or other
37 forest products exclusively upon private roads or private highways.

1 (9) "Urban transportation business" means the business of operating
2 any vehicle for public use in the conveyance of persons or property for
3 hire, insofar as (a) operating entirely within the corporate limits of
4 any city or town, or within five miles of the corporate limits thereof,
5 or (b) operating entirely within and between cities and towns whose
6 corporate limits are not more than five miles apart or within five
7 miles of the corporate limits of either thereof. Included herein, but
8 without limiting the scope hereof, is the business of operating
9 passenger vehicles of every type and also the business of operating
10 cartage, pickup, or delivery services, including in such services the
11 collection and distribution of property arriving from or destined to a
12 point within or without the state, whether or not such collection or
13 distribution be made by the person performing a local or interstate
14 line-haul of such property.

15 (10) "Log transportation business" means the business of
16 transporting logs by truck, other than exclusively upon private roads.

17 (11)(a) "Public service business" means any of the businesses
18 defined in subsections (1), (2), (3), (4), (5), (6), (7), (8), and (9)
19 of this section or any business subject to control by the state, or
20 having the powers of eminent domain and the duties incident thereto, or
21 any business hereafter declared by the legislature to be of a public
22 service nature, except telephone business and low-level radioactive
23 waste site operating companies as redefined in RCW 81.04.010. It
24 includes, among others, without limiting the scope hereof: Airplane
25 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
26 road, water transportation and wharf businesses.

27 (b) The definitions in this subsection (~~((+10+))~~) (11)(b) apply
28 throughout this subsection (~~((+10+))~~) (11).

29 (i) "Competitive telephone service" has the same meaning as in RCW
30 82.04.065.

31 (ii) "Network telephone service" means the providing by any person
32 of access to a telephone network, telephone network switching service,
33 toll service, or coin telephone services, or the providing of
34 telephonic, video, data, or similar communication or transmission for
35 hire, via a telephone network, toll line or channel, cable, microwave,
36 or similar communication or transmission system. "Network telephone
37 service" includes the provision of transmission to and from the site of
38 an internet provider via a telephone network, toll line or channel,

1 cable, microwave, or similar communication or transmission system.
2 "Network telephone service" does not include the providing of
3 competitive telephone service, the providing of cable television
4 service, the providing of broadcast services by radio or television
5 stations, nor the provision of internet service as defined in RCW
6 82.04.297, including the reception of dial-in connection, provided at
7 the site of the internet service provider.

8 (iii) "Telephone business" means the business of providing network
9 telephone service. It includes cooperative or farmer line telephone
10 companies or associations operating an exchange.

11 (iv) "Telephone service" means competitive telephone service or
12 network telephone service, or both, as defined in (b)(i) and (ii) of
13 this subsection.

14 (~~(11)~~) (12) "Tugboat business" means the business of operating
15 tugboats, towboats, wharf boats or similar vessels in the towing or
16 pushing of vessels, barges or rafts for hire.

17 (~~(12)~~) (13) "Gross income" means the value proceeding or accruing
18 from the performance of the particular public service or transportation
19 business involved, including operations incidental thereto, but without
20 any deduction on account of the cost of the commodity furnished or
21 sold, the cost of materials used, labor costs, interest, discount,
22 delivery costs, taxes, or any other expense whatsoever paid or accrued
23 and without any deduction on account of losses.

24 (~~(13)~~) (14) The meaning attributed, in chapter 82.04 RCW, to the
25 term "tax year," "person," "value proceeding or accruing," "business,"
26 "engaging in business," "in this state," "within this state," "cash
27 discount" and "successor" shall apply equally in the provisions of this
28 chapter.

29 **Sec. 702.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to
30 read as follows:

31 (1) There is levied and there shall be collected from every person
32 a tax for the act or privilege of engaging within this state in any one
33 or more of the businesses herein mentioned. The tax shall be equal to
34 the gross income of the business, multiplied by the rate set out after
35 the business, as follows:

36 (a) Express, sewerage collection, and telegraph businesses: Three
37 and six-tenths percent;

- 1 (b) Light and power business: Three and sixty-two one-hundredths
2 percent;
- 3 (c) Gas distribution business: Three and six-tenths percent;
- 4 (d) Urban transportation business: Six-tenths of one percent;
- 5 (e) Vessels under sixty-five feet in length, except tugboats,
6 operating upon the waters within the state: Six-tenths of one percent;
- 7 (f) Motor transportation, railroad, railroad car, and tugboat
8 businesses, and all public service businesses other than ones mentioned
9 above: One and eight-tenths of one percent;
- 10 (g) Water distribution business: Four and seven-tenths percent;
- 11 (h) Log transportation business: One and twenty-eight one-
12 hundredths percent.

13 (2) An additional tax is imposed equal to the rate specified in RCW
14 82.02.030 multiplied by the tax payable under subsection (1) of this
15 section.

16 (3) Twenty percent of the moneys collected under subsection (1) of
17 this section on water distribution businesses and sixty percent of the
18 moneys collected under subsection (1) of this section on sewerage
19 collection businesses shall be deposited in the public works assistance
20 account created in RCW 43.155.050.

21 **PART VIII**
22 **Hybrid Vehicles**

23 NEW SECTION. **Sec. 801.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 82.08.813 (Exemptions--High gas mileage vehicles) and 2005
26 c 296 s 2; and

27 (2) RCW 82.12.813 (Exemptions--High gas mileage vehicles) and 2005
28 c 296 s 4.

29 **Sec. 802.** RCW 82.08.020 and 2006 c 1 s 3 are each amended to read
30 as follows:

31 (1) There is levied and there shall be collected a tax on each
32 retail sale in this state equal to six and five-tenths percent of the
33 selling price.

34 (2) There is levied and there shall be collected an additional tax
35 on each retail car rental, regardless of whether the vehicle is

1 licensed in this state, equal to five and nine-tenths percent of the
2 selling price. The revenue collected under this subsection shall be
3 deposited in the multimodal transportation account created in RCW
4 47.66.070.

5 (3) Beginning July 1, 2003, there is levied and collected an
6 additional tax of three-tenths of one percent of the selling price on
7 each retail sale of a motor vehicle in this state, other than retail
8 car rentals taxed under subsection (2) of this section. The revenue
9 collected under this subsection shall be deposited in the multimodal
10 transportation account created in RCW 47.66.070.

11 (4) For purposes of subsection (3) of this section, "motor vehicle"
12 has the meaning provided in RCW 46.04.320, but does not include farm
13 tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181,
14 off-road and nonhighway vehicles as defined in RCW 46.09.020, and
15 snowmobiles as defined in RCW 46.10.010.

16 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
17 collected under subsection (1) of this section shall be dedicated to
18 funding comprehensive performance audits required under RCW 43.09.470.
19 The revenue identified in this subsection shall be deposited in the
20 performance audits of government account created in RCW 43.09.475.

21 (6) The taxes imposed under this chapter shall apply to successive
22 retail sales of the same property.

23 (7)(a) Until January 1, 2011, the tax imposed in subsection (3) of
24 this section and the dedication of revenue provided for in subsection
25 (5) of this section, do not apply with respect to the sales of new
26 passenger cars, light duty trucks, and medium duty passenger vehicles,
27 which utilize hybrid technology and have a United States environmental
28 protection agency estimated highway gasoline mileage rating of at least
29 forty miles per gallon.

30 (b) As used in this subsection, "hybrid technology" means
31 propulsion units powered by both electricity and gasoline.

32 (8) The rates provided in this section apply to taxes imposed under
33 chapter 82.12 RCW as provided in RCW 82.12.020.

34 **PART IX**

35 **Renewable Energy Manufacturing Projects**

1 NEW SECTION. **Sec. 901.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

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

6 (2) "Department" means the department of revenue.

7 (3) "Eligible investment project" means an investment project that:
8 (a) Does not qualify as an eligible investment project under chapter
9 82.60 RCW; and (b) is located in a county with a population density of
10 more than five hundred persons per square mile that does not contain a
11 community empowerment zone designated under RCW 43.31C.020, and that is
12 not one of the three most populous counties in this state.

13 (4)(a) "Initiation of construction" means the date that a building
14 permit is issued under the building code adopted under RCW 19.27.031
15 for:

16 (i) Construction of the qualified building, if the underlying
17 ownership of the building vests exclusively with the person receiving
18 the economic benefit of the deferral;

19 (ii) Construction of the qualified building, if the economic
20 benefits of the deferral are passed to a lessee as provided in section
21 902 of this act; or

22 (iii) Tenant improvements for a qualified building, if the economic
23 benefits of the deferral are passed to a lessee as provided in section
24 902 of this act.

25 (b) "Initiation of construction" does not include soil testing,
26 site clearing and grading, site preparation, or any other related
27 activities that are initiated before the issuance of a building permit
28 for the construction of the foundation of the building.

29 (c) If the investment project is a phased project, "initiation of
30 construction" applies separately to each phase.

31 (5) "Investment project" means a minimum investment of twenty-five
32 million dollars in qualified buildings, qualified machinery and
33 equipment, or both, including labor and services rendered in the
34 planning, installation, and construction of the project.

35 (6) "Manufacturing" has the same meaning as "to manufacture" in RCW
36 82.04.120 and includes the activities of processors for hire.

37 (7) "Person" has the meaning given in RCW 82.04.030.

1 (8)(a) "Qualified buildings" means construction of new structures,
2 and expansion or renovation of existing structures for the purpose of
3 increasing floor space or production capacity, used for renewable
4 energy manufacturing, research and development, or both. "Qualified
5 buildings" include plant offices, warehouses, or other facilities for
6 the storage of raw material or finished goods, if such facilities are
7 an essential or an integral part of a factory, plant, or laboratory
8 used for renewable energy manufacturing, research and development, or
9 both.

10 (b) For purposes of the twenty-five million dollar threshold in
11 subsection (5) of this section, "qualified buildings" includes: (i)
12 Existing structures acquired for the purpose of renewable energy
13 manufacturing, research and development, or both; and (ii) the land
14 upon which qualified buildings are located.

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

23 (10) "Recipient" means a person receiving a tax deferral under this
24 chapter.

25 (11) "Renewable energy manufacturing" means the manufacturing of
26 materials, components, or equipment for solar, wind, bioenergy, or
27 geothermal energy systems.

28 (12) "Research and development" means the development, refinement,
29 testing, marketing, and commercialization of a product, service, or
30 process related to renewable energy manufacturing before commercial
31 sales have begun. As used in this subsection, "commercial sales"
32 excludes sales of prototypes or sales for market testing if the total
33 gross receipts from such sales of the product, service, or process do
34 not exceed one million dollars.

35 NEW SECTION. **Sec. 902.** (1) The lessor or owner of a qualified
36 building is not eligible for a deferral under this chapter unless:

1 (a) The underlying ownership of the buildings, machinery, and
2 equipment vests exclusively in the same person; or

3 (b)(i) The lessor by written contract agrees to pass the economic
4 benefit of the deferral to the lessee in the form of reduced rent
5 payments; and

6 (ii) The lessee that receives the economic benefit of the deferral
7 agrees in writing with the department to complete the annual survey
8 under section 906 of this act.

9 (2) The economic benefit of the deferral to the lessee may be
10 evidenced by any type of payment, credit, or any other financial
11 arrangement between the lessor or owner of the qualified building and
12 the lessee.

13 NEW SECTION. **Sec. 903.** If a building is used partly for renewable
14 energy manufacturing or research and development and partly for other
15 purposes, the applicable tax deferral must be determined by
16 apportionment of the costs of construction under rules adopted by the
17 department.

18 NEW SECTION. **Sec. 904.** (1) Application for deferral of taxes
19 under this chapter must be made before initiation of construction of
20 the investment project or acquisition of machinery and equipment. The
21 application must be made to the department in a form and manner
22 prescribed by the department. The application must contain information
23 regarding the location of the investment project, estimated or actual
24 costs of the investment project, time schedules for completion and
25 operation, and other information required by the department.

26 (2) The department must rule on the application within sixty days.
27 The department must keep a running total of the estimated tax that will
28 be deferred under this chapter during the 2009-2011 and 2011-2013
29 fiscal biennia. The department must disallow any deferral application
30 or portion of any deferral application that would cause the total
31 estimated amount of state sales and use taxes deferred statewide under
32 this chapter to exceed one million five hundred thousand dollars during
33 the four-year period of the 2009-2011 and 2011-2013 fiscal biennia.

34 (3) The department must disallow any taxes deferred that would
35 cause the total amount of taxes deferred under this section by all
36 recipients to exceed one million five hundred thousand dollars during

1 the four-year period of the 2009-2011 and 2011-2013 fiscal biennia. If
2 this limitation is reached, the department must provide notification to
3 all recipients that the limitation has been met. The notice must
4 indicate the amount of tax due and must provide that the tax be paid
5 within thirty days from the date of such notice. The department may
6 not assess penalties and interest as provided in chapter 82.32 RCW on
7 the amount due in the initial notice if the amount due is paid by the
8 due date specified in the notice, or any extension thereof.

9 NEW SECTION. **Sec. 905.** (1) The department must issue a sales and
10 use tax deferral certificate for state and local sales and use taxes
11 imposed or authorized under chapters 82.08, 82.12, 82.14, and 81.104
12 RCW on each eligible investment project.

13 (2) This section expires June 30, 2013.

14 NEW SECTION. **Sec. 906.** (1)(a) The legislature finds that
15 accountability and effectiveness are important aspects of setting tax
16 policy. In order to make policy choices regarding the best use of
17 limited state resources the legislature needs information on how a tax
18 incentive is used.

19 (b) Each recipient of a deferral granted under this chapter must
20 complete an annual survey. If the economic benefits of the deferral
21 are passed to a lessee as provided in section 902 of this act, the
22 lessee must complete the annual survey and the applicant is not
23 required to complete the annual survey. The survey is due by April
24 30th of the year following the calendar year in which the investment
25 project is certified by the department as having been operationally
26 complete and each of the seven succeeding calendar years. The
27 department may extend the due date for timely filing of annual surveys
28 under this section as provided in RCW 82.32.590. The survey must
29 include the amount of tax deferred. The survey must also include the
30 following information for employment positions in Washington:

31 (i) The number of total employment positions;

32 (ii) Full-time, part-time, and temporary employment positions as a
33 percent of total employment;

34 (iii) The number of employment positions according to the following
35 wage bands: Less than thirty thousand dollars; thirty thousand dollars

1 or greater, but less than sixty thousand dollars; and sixty thousand
2 dollars or greater. A wage band containing fewer than three
3 individuals may be combined with another wage band; and

4 (iv) The number of employment positions that have employer-provided
5 medical, dental, and retirement benefits, by each of the wage bands.

6 (c) As part of the annual survey, the department may request
7 additional information necessary to measure the results of, or
8 determine eligibility for, the deferral program.

9 (d) If the person filing a survey under this section did not file
10 a survey with the department in the previous calendar year, the survey
11 filed under this section must also include the employment, wage, and
12 benefit information required under (b)(i) through (iv) of this
13 subsection for the calendar year immediately preceding the preceding
14 calendar year.

15 (e)(i) Except as otherwise provided, all information collected
16 under this subsection, except the amount of the tax deferral taken, is
17 deemed taxpayer information under RCW 82.32.330. Information on the
18 amount of tax deferral taken is not subject to the confidentiality
19 provisions of RCW 82.32.330 and may be disclosed to the public upon
20 request, except as otherwise provided in this subsection.

21 (ii) If the amount of the tax deferral taken as reported on the
22 survey is different than the amount actually taken or otherwise allowed
23 by the department based on information known to the department, the
24 amount actually taken or allowed may be disclosed.

25 (iii) Recipients for whom the actual amount of the tax deferral
26 taken is less than ten thousand dollars during the period covered by
27 the survey may request the department to treat the amount of the tax
28 savings as confidential under RCW 82.32.330.

29 (f) The department must use the information from this section to
30 prepare summary descriptive statistics by category. No fewer than
31 three taxpayers may be included in any category. The department must
32 report these statistics to the legislature each year by October 1st.

33 (2)(a) If a recipient of the deferral fails to complete the annual
34 survey required under subsection (1) of this section by the date due or
35 any extension under RCW 82.32.590, twelve and one-half percent of the
36 deferred tax is immediately due. If the economic benefits of the
37 deferral are passed to a lessee as provided in section 902 of this act,
38 the lessee will be responsible for payment to the extent the lessee has

1 received the economic benefit. The department must assess interest,
2 but not penalties, on the amounts due under this section. The interest
3 must be assessed at the rate provided for delinquent taxes under
4 chapter 82.32 RCW, and accrues until the amounts due are repaid.

5 (b) A recipient who must repay deferred taxes under section 907(2)
6 of this act because the department has found that an investment project
7 is used for purposes other than renewable energy manufacturing or
8 research and development is no longer required to file annual surveys
9 under this section beginning on the date an investment project is used
10 for nonqualifying purposes.

11 NEW SECTION. **Sec. 907.** (1) Except as provided in subsection (2)
12 of this section, taxes deferred under this chapter need not be repaid.

13 (2) If, on the basis of the survey under section 906 of this act or
14 other information, the department finds that an investment project is
15 used for purposes other than renewable energy manufacturing or research
16 and development at any time during the calendar year in which the
17 investment project is certified by the department as having been
18 operationally completed, or at any time during any of the seven
19 succeeding calendar years, a portion of deferred taxes are immediately
20 due according to the following schedule:

21	Year in which	% of deferred taxes due
22	nonqualifying use occurs	
23	1	100%
24	2	87.5%
25	3	75%
26	4	62.5%
27	5	50%
28	6	37.5%
29	7	25%
30	8	12.5%

31 (3) The department must assess interest, but not penalties, on the
32 deferred taxes under subsection (2) of this section. The interest must
33 be assessed at the rate provided for delinquent taxes under chapter
34 82.32 RCW, retroactively to the date of deferral, and accrues until the

1 deferred taxes are repaid. The debt for deferred taxes will not be
2 extinguished by insolvency or other failure of the recipient. Transfer
3 of ownership does not terminate the deferral. The deferral is
4 transferred, subject to the successor meeting the eligibility
5 requirements of this chapter, for the remaining periods of the
6 deferral.

7 (4) Notwithstanding subsection (2) of this section, deferred taxes
8 on the following need not be repaid:

9 (a) Machinery and equipment, and sales of or charges made for labor
10 and services, which at the time of purchase would have qualified for
11 exemption under RCW 82.08.02565; and

12 (b) Machinery and equipment which at the time of first use would
13 have qualified for exemption under RCW 82.12.02565.

14 NEW SECTION. **Sec. 908.** Chapter 82.32 RCW applies to the
15 administration of this chapter.

16 NEW SECTION. **Sec. 909.** Applications approved by the department
17 under this chapter are not confidential and are subject to disclosure.

18 **Sec. 910.** RCW 82.32.590 and 2008 c 81 s 13 and 2008 c 15 s 7 are
19 each reenacted and amended to read as follows:

20 (1) If the department finds that the failure of a taxpayer to file
21 an annual survey or annual report under section 906 of this act or RCW
22 82.04.4452, 82.32.5351, 82.32.650, 82.32.630, 82.32.610, 82.82.020, or
23 82.74.040 by the due date was the result of circumstances beyond the
24 control of the taxpayer, the department shall extend the time for
25 filing the survey or report. Such extension shall be for a period of
26 thirty days from the date the department issues its written
27 notification to the taxpayer that it qualifies for an extension under
28 this section. The department may grant additional extensions as it
29 deems proper.

30 (2) In making a determination whether the failure of a taxpayer to
31 file an annual survey or annual report by the due date was the result
32 of circumstances beyond the control of the taxpayer, the department
33 shall be guided by rules adopted by the department for the waiver or
34 cancellation of penalties when the underpayment or untimely payment of
35 any tax was due to circumstances beyond the control of the taxpayer.

1 **Sec. 911.** RCW 82.32.600 and 2008 c 81 s 14 and 2008 c 15 s 8 are
2 each reenacted and amended to read as follows:

3 (1) Persons required to file annual surveys or annual reports under
4 section 906 of this act or RCW 82.04.4452, 82.32.5351, 82.32.545,
5 82.32.610, 82.32.630, 82.82.020, or 82.74.040 must electronically file
6 with the department all surveys, reports, returns, and any other forms
7 or information the department requires in an electronic format as
8 provided or approved by the department. As used in this section,
9 "returns" has the same meaning as "return" in RCW 82.32.050.

10 (2) Any survey, report, return, or any other form or information
11 required to be filed in an electronic format under subsection (1) of
12 this section is not filed until received by the department in an
13 electronic format.

14 (3) The department may waive the electronic filing requirement in
15 subsection (1) of this section for good cause shown.

16 NEW SECTION. **Sec. 912.** A new section is added to chapter 82.04
17 RCW to read as follows:

18 (1) In computing the tax imposed under this chapter, a renewable
19 energy manufacturer may claim a credit for its eligible investment
20 project expenditures occurring after the effective date of this act
21 through June 30, 2014.

22 (2) Any credits earned under this section must be accrued and
23 carried forward and may not be used until July 1, 2011. The credit is
24 equal to the amount of eligible investment project expenditures,
25 multiplied by the rate of twenty-five percent. Credit may be carried
26 over and used until June 30, 2024. The credit claimed against taxes
27 due for each calendar year must not exceed the amount of tax otherwise
28 due under this chapter for the calendar year. Refunds may not be
29 granted in the place of a credit.

30 (3) Credits are available on a first in-time basis. The department
31 must disallow any credits, or portion thereof, that would cause the
32 total amount of credits claimed statewide under this section in any
33 fiscal year to exceed the following limits: Two million five hundred
34 thousand dollars for fiscal year 2012, two million five hundred
35 thousand dollars for fiscal year 2013, five million dollars for fiscal
36 year 2014, and five million dollars for each fiscal year thereafter
37 until the fiscal year ending June 30, 2024. If the fiscal year

1 limitation is reached, the department shall provide notification to
2 persons claiming credits that the annual statewide limit has been met.
3 The notice must indicate the amount of tax due and shall provide that
4 the tax be paid within thirty days from the date of such notice. The
5 department may not assess penalties and interest as provided in chapter
6 82.32 RCW on the amount due in the initial notice if the amount due is
7 paid by the due date specified in the notice, or any extension thereof.

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

10 (a) "Eligible investment project" means an investment project that:

11 (i) Does not qualify as an eligible investment project under chapter
12 82.60 RCW; and (ii) is located in a county with a population density of
13 more than five hundred persons per square mile that does not contain a
14 community empowerment zone designated under RCW 43.31C.020, and that is
15 not one of the three most populous counties in this state.

16 (b) "Eligible investment project expenditures" means actual
17 expenditures for an eligible investment project, including labor and
18 services rendered in the planning, installation, and construction of
19 the project.

20 (c) "Investment project" means a twenty-five million dollar minimum
21 investment in qualified buildings, qualified machinery and equipment,
22 or both.

23 (d) "Manufacturing" has the same meaning as "to manufacture" in RCW
24 82.04.120 and includes the activities of processors for hire.

25 (e) "Person" has the meaning given in RCW 82.04.030.

26 (f)(i) "Qualified buildings" means construction of new structures,
27 and expansion or renovation of existing structures for the purpose of
28 increasing floor space or production capacity, used for renewable
29 energy manufacturing, research and development, or both. "Qualified
30 buildings" include plant offices, warehouses, or other facilities for
31 the storage of raw material or finished goods, if such facilities are
32 an essential or an integral part of a factory, plant, or laboratory
33 used for renewable energy manufacturing, research and development, or
34 both.

35 (ii) For purposes of the twenty-five million dollar threshold in
36 (c) of this subsection (4), "qualified buildings" includes: (A)
37 Existing structures acquired for the purpose of renewable energy

1 manufacturing, research and development, or both; and (B) the land upon
2 which qualified buildings are located.

3 (g) "Qualified machinery and equipment" means all industrial and
4 research fixtures, equipment, and support facilities that are an
5 integral and necessary part of a renewable energy manufacturing or
6 research and development operation. "Qualified machinery and
7 equipment" includes: Computers; software; data processing equipment;
8 laboratory equipment; manufacturing components such as belts, pulleys,
9 shafts, and moving parts; molds, tools, and dies; operating structures;
10 and all equipment used to control or operate the machinery.

11 (h) "Renewable energy manufacturing" means the manufacturing of
12 materials, components, or equipment for solar, wind, bioenergy, or
13 geothermal energy systems.

14 (i) "Research and development" means the development, refinement,
15 testing, marketing, and commercialization of a product, service, or
16 process related to renewable energy manufacturing before commercial
17 sales have begun. As used in this subsection, "commercial sales"
18 excludes sales of prototypes or sales for market testing if the total
19 gross receipts from such sales of the product, service, or process do
20 not exceed one million dollars.

21 (5) Credit may not be claimed for expenditures for which a credit
22 is claimed under RCW 82.04.4452.

23 (6) This section expires June 30, 2024.

24 NEW SECTION. **Sec. 913.** A new section is added to chapter 82.04
25 RCW to read as follows:

26 In addition to all other requirements under this title, a person
27 claiming the credit under section 912 of this act must file a complete
28 annual report with the department under section 915 of this act.

29 NEW SECTION. **Sec. 914.** A new section is added to chapter 82.04
30 RCW to read as follows:

31 In addition to all other requirements under this title, a person
32 claiming the credit under section 912 of this act must file a complete
33 annual report with the department under section 102, chapter ..., Laws
34 of 2009 (Substitute House Bill No. 1597).

1 NEW SECTION. **Sec. 915.** A new section is added to chapter 82.32
2 RCW to read as follows:

3 (1)(a) Every person claiming a tax preference in section 912 of
4 this act must file a complete annual survey with the department.

5 The survey is due by April 30th of the year following any calendar
6 year in which a person becomes eligible to claim the tax preference
7 that requires a survey under this section.

8 (b) The department may extend the due date for timely filing of
9 annual surveys under this section as provided in RCW 82.32.590.

10 (2)(a) The survey must include the amount of the tax preference
11 claimed for the calendar year covered by the survey.

12 (b) The survey must also include the following information for
13 employment positions in Washington, not to include names of employees,
14 for the year that the tax preference was claimed:

15 (i) The number of total employment positions;

16 (ii) Full-time, part-time, and temporary employment positions as a
17 percent of total employment;

18 (iii) The number of employment positions according to the following
19 wage bands: Less than thirty thousand dollars; thirty thousand dollars
20 or greater, but less than sixty thousand dollars; and sixty thousand
21 dollars or greater. A wage band containing fewer than three
22 individuals may be combined with another wage band; and

23 (iv) The number of employment positions that have employer-provided
24 medical, dental, and retirement benefits, by each of the wage bands.

25 (c) If the person filing a survey under this section did not file
26 a survey with the department in the previous calendar year, the survey
27 filed under this section must also include the employment, wage, and
28 benefit information required under (b)(i) through (iv) of this
29 subsection for the calendar year immediately preceding the calendar
30 year for which a tax preference was claimed.

31 (3) As part of the annual survey, the department may request
32 additional information necessary to measure the results of, or
33 determine eligibility for, the tax preference.

34 (4) All information collected under this section, except the amount
35 of the tax preference claimed, is deemed taxpayer information under RCW
36 82.32.330. Information on the amount of tax preference claimed is not
37 subject to the confidentiality provisions of RCW 82.32.330 and may be
38 disclosed to the public upon request, except as provided in subsection

1 (5) of this section. If the amount of the tax preference claimed as
2 reported on the survey is different than the amount actually claimed or
3 otherwise allowed by the department based on the taxpayer's excise tax
4 returns or other information known to the department, the amount
5 actually claimed or allowed may be disclosed.

6 (5) Persons for whom the actual amount of the tax reduced or saved
7 is less than ten thousand dollars during the period covered by the
8 survey may request the department to treat the amount of the tax
9 reduction or savings as confidential under RCW 82.32.330.

10 (6)(a) Except as otherwise provided by law, if a person claims a
11 tax preference that requires an annual survey under this section but
12 fails to submit a complete annual survey by the due date of the survey
13 or any extension under RCW 82.32.590, the department must declare the
14 amount of the tax preference claimed for the previous calendar year to
15 be immediately due. If the tax preference is a deferral of tax, twelve
16 and one-half percent of the deferred tax is immediately due. If the
17 economic benefits of the deferral are passed to a lessee, the lessee is
18 responsible for payment to the extent the lessee has received the
19 economic benefit.

20 (b) The department must assess interest, but not penalties, on the
21 amounts due under this subsection. The interest must be assessed at
22 the rate provided for delinquent taxes under this chapter,
23 retroactively to the date the tax preference was claimed, and accrues
24 until the taxes for which the tax preference was claimed are repaid.
25 Amounts due under this subsection are not subject to the
26 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
27 public upon request.

28 (7) The department must use the information from this section to
29 prepare summary descriptive statistics by category. No fewer than
30 three taxpayers may be included in any category. The department must
31 report these statistics to the legislature each year by October 1st.

32 (8) For the purposes of this section:

33 (a) "Person" has the meaning provided in RCW 82.04.030 and also
34 includes the state and its departments and institutions.

35 (b) "Tax preference" has the meaning provided in RCW 43.136.021 and
36 includes only the tax preferences requiring a survey under this
37 section.

ADOPTED 04/26/2009

1 On page 1, line 1 of the title, after "incentives;" strike the
2 remainder of the title and insert "amending RCW 81.104.170, 82.14.050,
3 82.14.060, 82.04.263, 82.04.294, 82.08.9651, 82.12.9651, 82.16.110,
4 82.16.120, 82.16.130, 82.08.890, 82.12.890, 82.16.010, 82.16.020, and
5 82.08.020; reenacting and amending RCW 82.32.590 and 82.32.600; adding
6 new sections to chapter 82.08 RCW; adding new sections to chapter 82.12
7 RCW; adding a new section to chapter 82.14 RCW; adding new sections to
8 chapter 82.04 RCW; adding a new section to chapter 82.32 RCW; adding a
9 new chapter to Title 82 RCW; creating new sections; repealing RCW
10 82.08.813 and 82.12.813; providing effective dates; providing
11 contingent effective dates; providing expiration dates; and declaring
12 an emergency."

EFFECT: Part I: Renewable Energy.

A sales and use tax exemption in the form of a refund is allowed for 100 percent of the sales tax paid on machinery and equipment used to create energy from fuel cells, sun, wind, biomass energy, tidal and wave energy, geothermal resources, anaerobic digestion, and technology that converts otherwise lost energy from exhaust or landfill gas from July 1, 2009, to June 30, 2011. The sales tax exemption is reduced to 75 percent from July 1, 2011, to June 30, 2013. The exemption expires June 30, 2013.

Part II: Radioactive Waste Cleanup.

Persons providing certain support services which are either within the scope of work under a clean-up contract with the United States Department of Energy, or which assist in the requirement of a clean-up subcontract are qualified for the reduced B&O tax rate of 0.471 percent for radioactive waste cleanup.

Part III: Hog Fuel Incentives.

A sales tax exemption is provided for hog fuel used to produce electricity, steam, heat, or biofuel. Hog fuel is defined as wood waste and other wood residuals including forest derived biomass.

Part IV: Biomass Energy Incentives.

(1) A B&O credit is provided for harvesters of harvested green ton of forest derived biomass sold or used for production of electricity, steam, heat, or biofuel as follows:

(a) From July 1, 2010, through June 30, 2013, \$3 per harvested green ton; and

(b) From July 1, 2013, through June 30, 2015, \$5 per harvested green ton.

(2) The credit expires June 30, 2015.

(3) A sales tax exemption is provided for the sale of forest derived biomass used to produce electricity, steam, heat, or biofuel. The exemption expires June 30, 2013.

Part V: Solar Energy and Semiconductor Incentives.

(1) Beginning October 1, 2009, the B&O tax for businesses that manufacture or sell at wholesale either: (a) Solar energy systems using photovoltaic modules; or (b) solar grade silicon and an expanded list of materials to be used exclusively in the components solar systems or semiconductors is set at a reduced rate of 0.275 percent. The lower B&O tax rate expires June 30, 2014. A sales tax exemption is provided for gases and chemicals used in the production of solar energy equipment. The exemption expires December 1, 2018.

(2) The cost-recovery incentive program for renewable energy systems is extended to "community solar projects," which are either: (a) A solar energy system owned by local individuals, households, or nonutility businesses that is placed on the property owned by their cooperating local governmental entity; or (b) a utility-owned solar energy system that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project. Community solar projects are eligible for incentives of 30 cents for each kilowatt-hour of energy produced. Each applicant in a community solar project is eligible for annual incentives of \$5,000 per year.

(3) The credit for a utility providing cost-recovery incentive payments is increased to \$100,000 or 1 percent of the utility's taxable power sales, whichever is greater. Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit. The expiration date of the cost-recovery program is extended from 2015 to 2020.

(4) The following routinely provided services are considered to contribute to the accomplishment of a requirement of a clean-up project and thus subject to the reduced B&O tax rate: Information technology and computer support; services rendered in respect to infrastructure; and security, safety, and health services.

Part VI: Livestock Nutrient Incentives.

The nutrient management sales and use tax exemption is expressed as a fixed list of equipment and facilities. Labor and services related to the construction of a new livestock nutrient management facility or the replacing of such a facility are explicitly excluded from the sales and use tax exemption. A statutory definition of "handling and treatment of livestock manure" is provided.

Part VII: Log Hauling.

The public utility tax on log hauling is reduced from 1.926 percent to 1.37 percent.

Part VIII: Hybrid Vehicles.

On August 1, 2009, the sales tax exemption on hybrid vehicles is repealed. Hybrid vehicles are not subject to the 0.3 percent sales tax on vehicles through January 1, 2011.

Part IX: Renewable Energy Manufacturing Projects.

(1) Provides 4-year sales/use tax deferral for eligible investment projects in a county that is not qualified for the rural county investment project incentives under chapter 82.60 RCW, does not have a community empowerment zone (CEZ), is not one of the 3 most populous counties in the state, and meets population density requirements.

(a) Projects must have a minimum investment of \$25 million.

(b) Projects must be for renewable energy manufacturing, which includes solar, wind, bioenergy, or geothermal energy systems.

(c) Applications for the 4-year deferral must be made prior to initiation of construction.

(d) The statewide cap on all deferred taxes for the 4-year period is \$1.5 million.

(e) Taxes need not be repaid if the project continues to be used for renewable energy manufacturing.

(f) Deferral certificates expire June 30, 2013.

(g) Persons claiming the deferral must complete an annual survey reporting data.

(2) Provides a credit against the B&O tax for renewable energy manufacturers for eligible investment projects in a county that is not qualified for the rural county investment project incentives under chapter 82.60 RCW, does not have a community empowerment zone (CEZ), is not one of the 3 most populous counties in the state, and meets population density requirements.

(a) Projects must have a minimum investment of \$25 million.

(b) Projects must be for renewable energy manufacturing, which includes solar, wind, bioenergy, or geothermal energy systems.

(c) Credits are based on 25 percent of eligible investment project expenditures.

(d) Credits accrue for expenditures occurring after the effective date of the bill and June 30, 2014.

(e) Credits may not be used before July 1, 2011.

(f) Credits have an annual statewide cap: \$2.5M for FY12, \$2.5M for FY13, \$5M for FY14 and thereafter.

(g) Credits may be carried forward and used until June 30, 2024.

(h) Credits may not exceed the amount of tax due and are not refundable.

(i) Persons claiming the credit must file a complete annual survey.

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