
SUBSTITUTE HOUSE BILL 1758

State of Washington

64th Legislature

2015 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Tharinger, Wilcox, Van De Wege, Takko, Walkinshaw, Blake, Ryu, Orcutt, Fitzgibbon, Nealey, Smith, Moscoso, Fey, Jinkins, and Goodman; by request of Office of Financial Management)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to extending the expiration date of tax
2 preferences for biofuel, biomass, and energy conservation; amending
3 RCW 82.04.4334, 82.04.4334, 82.08.955, 82.08.955, 82.12.955,
4 82.29A.135, 82.29A.135, 84.36.635, 84.36.635, 82.04.4494, 82.04.4494,
5 and 82.04.310; creating new sections; providing an effective date;
6 providing expiration dates; and declaring an emergency.

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

8

PART I

9

Biofuel Tax Incentives

10 NEW SECTION. **Sec. 101.** It is the intent of the legislature to
11 promote the use of alternative fuels and meet Washington state's
12 commitment to its present and future generations to fully address the
13 climate change challenge. This section is the tax preference
14 performance statement for the tax preferences contained in sections
15 102 through 110 of this act. This performance statement is only
16 intended to be used for subsequent evaluation of the tax preferences.
17 It is not intended to create a private right of action by any party
18 or be used to determine eligibility for preferential tax treatment.

19 (1) The legislature categorizes these tax preferences as intended
20 to accomplish a general purpose as indicated in RCW 82.32.808(2)(f).

1 (2) It is the legislature's specific public policy objective to
2 promote the production of biofuels that can replace the use of fossil
3 fuels to produce energy and thereby help with achieving the state's
4 renewable energy and greenhouse gas emissions targets. It is also the
5 legislature's specific public policy objective to create new markets
6 for Washington oilseeds.

7 (3) To measure the effectiveness of the exemptions in sections
8 102 through 110 of this act in achieving the public policy objectives
9 described in subsection (2) of this section, the joint legislative
10 audit and review committee must evaluate the number of biofuel plants
11 operating in Washington state, the number of taxpayers that claim the
12 preferences, the amount and type of preferences claimed, the amount
13 of biodiesel produced in Washington state, and the number of acres of
14 land used for oilseed production that may be used to produce
15 biofuels. If a review finds that there is an increase in use of the
16 tax preferences in sections 102 through 110 of this act, then the
17 legislature intends to extend the expiration date of the tax
18 preferences.

19 (4) In order to obtain the data necessary to perform the review
20 in subsection (3) of this section, the joint legislative audit and
21 review committee may refer to data from the department of revenue,
22 the Washington State University energy extension program, the
23 Washington state department of agriculture, the federal energy
24 information administration, and any other data source it deems
25 necessary.

26 **Sec. 102.** RCW 82.04.4334 and 2007 c 309 s 3 are each amended to
27 read as follows:

28 (1) In computing tax there may be deducted from the measure of
29 tax amounts received from the retail sale, or for the distribution,
30 of:

- 31 (a) Biodiesel fuel; or
- 32 (b) E85 motor fuel.

33 (2) For the purposes of this section and RCW 82.08.955 and
34 82.12.955, the following definitions apply:

35 (a) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
36 acids derived from vegetable oils or animal fats for use in
37 compression-ignition engines and that meets the ~~((requirements of the~~
38 ~~American society of testing and materials specification D-6751 in~~

1 ~~effect as of January 1, 2003)) fuel standards adopted under chapter~~
2 ~~19.112 RCW.~~

3 (b) "E85 motor fuel" means (~~(an alternative))~~ a motor fuel that
4 is a blend of ethanol and (~~(hydrocarbon of which the ethanol portion~~
5 ~~is nominally seventy five to eighty five percent denatured fuel~~
6 ~~ethanol by volume that complies with the most recent version of~~
7 ~~American society of testing and materials specification D 5798))~~
8 gasoline that meets the fuel standards adopted under chapter 19.112
9 RCW.

10 (c) "Distribution" means any of the actions specified in RCW
11 82.36.020(2).

12 (3) Every taxpayer claiming a deduction under this section must
13 file a complete annual survey with the department under RCW
14 82.32.585.

15 (4) This section expires July 1, (~~(2015))~~ 2025.

16 **Sec. 103.** RCW 82.04.4334 and 2007 c 309 s 3 are each amended to
17 read as follows:

18 (1) In computing tax there may be deducted from the measure of
19 tax amounts received from the retail sale, or for the distribution,
20 of:

21 (a) Biodiesel fuel; or

22 (b) E85 motor fuel.

23 (2) For the purposes of this section and RCW 82.08.955 and
24 82.12.955, the following definitions apply:

25 (a) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
26 acids derived from vegetable oils or animal fats sourced exclusively
27 from North America for use in compression-ignition engines and that
28 meets the requirements of the American society of testing and
29 materials specification D 6751 in effect as of January 1, 2003.

30 (b) "E85 motor fuel" means an alternative fuel that is a blend of
31 ethanol and hydrocarbon of which the ethanol portion is nominally
32 seventy-five to eighty-five percent denatured fuel ethanol by volume
33 that complies with the most recent version of American society of
34 testing and materials specification D 5798 and that is derived
35 exclusively from materials harvested in North America.

36 (c) "Distribution" means any of the actions specified in RCW
37 82.36.020(2).

1 (3) Every taxpayer claiming a deduction under this section must
2 file a complete annual survey with the department under RCW
3 82.32.585.

4 (4) This section expires July 1, ((2015)) 2025.

5 **Sec. 104.** RCW 82.08.955 and 2007 c 309 s 4 are each amended to
6 read as follows:

7 (1) The tax levied by RCW 82.08.020 does not apply to sales of
8 machinery and equipment, or to services rendered in respect to
9 constructing structures, installing, constructing, repairing,
10 cleaning, decorating, altering, or improving of structures or
11 machinery and equipment, or to sales of tangible personal property
12 that becomes an ingredient or component of structures or machinery
13 and equipment, if the machinery, equipment, or structure is used
14 directly for the retail sale of a biodiesel blend or E85 motor fuel.
15 Structures and machinery and equipment that are used for the retail
16 sale of a biodiesel blend or E85 motor fuel and for other purposes
17 are exempt only on the portion used directly for the retail sale of a
18 biodiesel blend or E85 motor fuel.

19 (2) The tax levied by RCW 82.08.020 does not apply to sales of
20 fuel delivery vehicles or to sales of or charges made for labor and
21 services rendered in respect to installing, repairing, cleaning,
22 altering, or improving the vehicles including repair parts and
23 replacement parts if at least seventy-five percent of the fuel
24 distributed by the vehicles is a biodiesel blend or E85 motor fuel.

25 (3) A person taking the exemption under this section must keep
26 records necessary for the department to verify eligibility under this
27 section. The exemption is available only when the buyer provides the
28 seller with an exemption certificate in a form and manner prescribed
29 by the department. The seller shall retain a copy of the certificate
30 for the seller's files.

31 (4) For the purposes of this section, the definitions in RCW
32 82.04.4334 and this subsection apply.

33 (a) "Biodiesel blend" means fuel that contains at least twenty
34 percent biodiesel fuel by volume.

35 (b) (~~"E85 motor fuel" means an alternative fuel that is a blend~~
36 ~~of ethanol and hydrocarbon of which the ethanol portion is nominally~~
37 ~~seventy five to eighty five percent denatured fuel ethanol by volume~~
38 ~~that complies with the most recent version of American society of~~
39 ~~testing and materials specification D-5798.~~

1 ~~(e))~~) "Machinery and equipment" means industrial fixtures,
2 devices, and support facilities and tangible personal property that
3 becomes an ingredient or component thereof, including repair parts
4 and replacement parts that are integral and necessary for the
5 delivery of biodiesel blends or E85 motor fuel into the fuel tank of
6 a motor vehicle.

7 (5) Every buyer claiming an exemption under this section must
8 file a complete annual survey with the department under RCW
9 82.32.585.

10 (6) This section expires July 1, (~~2015~~) 2025.

11 **Sec. 105.** RCW 82.08.955 and 2007 c 309 s 4 are each amended to
12 read as follows:

13 (1) The tax levied by RCW 82.08.020 does not apply to sales of
14 machinery and equipment, or to services rendered in respect to
15 constructing structures, installing, constructing, repairing,
16 cleaning, decorating, altering, or improving of structures or
17 machinery and equipment, or to sales of tangible personal property
18 that becomes an ingredient or component of structures or machinery
19 and equipment, if the machinery, equipment, or structure is used
20 directly for the retail sale of a biodiesel blend or E85 motor fuel.
21 Structures and machinery and equipment that are used for the retail
22 sale of a biodiesel blend or E85 motor fuel and for other purposes
23 are exempt only on the portion used directly for the retail sale of a
24 biodiesel blend or E85 motor fuel.

25 (2) The tax levied by RCW 82.08.020 does not apply to sales of
26 fuel delivery vehicles or to sales of or charges made for labor and
27 services rendered in respect to installing, repairing, cleaning,
28 altering, or improving the vehicles including repair parts and
29 replacement parts if at least seventy-five percent of the fuel
30 distributed by the vehicles is a biodiesel blend or E85 motor fuel.

31 (3) A person taking the exemption under this section must keep
32 records necessary for the department to verify eligibility under this
33 section. The exemption is available only when the buyer provides the
34 seller with an exemption certificate in a form and manner prescribed
35 by the department. The seller shall retain a copy of the certificate
36 for the seller's files.

37 (4) For the purposes of this section, the definitions in RCW
38 82.04.4334 and this subsection apply.

1 (a) "Biodiesel blend" means fuel that contains at least twenty
2 percent biodiesel fuel by volume and that is sourced exclusively from
3 North America.

4 (b) "E85 motor fuel" means an alternative fuel that is a blend of
5 ethanol and hydrocarbon of which the ethanol portion is nominally
6 seventy-five to eighty-five percent denatured fuel ethanol by volume
7 that complies with the most recent version of American society of
8 testing and materials specification D 5798 and that is derived
9 exclusively from materials harvested in North America.

10 (c) "Machinery and equipment" means industrial fixtures, devices,
11 and support facilities and tangible personal property that becomes an
12 ingredient or component thereof, including repair parts and
13 replacement parts that are integral and necessary for the delivery of
14 biodiesel blends or E85 motor fuel into the fuel tank of a motor
15 vehicle.

16 (5) Every taxpayer claiming a deduction under this section must
17 file a complete annual survey with the department under RCW
18 82.32.585.

19 (6) This section expires July 1, ((2015)) 2025.

20 **Sec. 106.** RCW 82.12.955 and 2007 c 309 s 5 are each amended to
21 read as follows:

22 (1) The provisions of this chapter do not apply in respect to the
23 use of machinery and equipment, or to services rendered in respect to
24 installing, repairing, cleaning, altering, or improving of eligible
25 machinery and equipment, or tangible personal property that becomes
26 an ingredient or component of machinery and equipment used directly
27 for the retail sale of a biodiesel blend or E85 motor fuel.

28 (2) The provisions of this chapter do not apply in respect to the
29 use of fuel delivery vehicles including repair parts and replacement
30 parts and to services rendered in respect to installing, repairing,
31 cleaning, altering, or improving the vehicles if at least seventy-
32 five percent of the fuel distributed by the vehicles is a biodiesel
33 blend or E85 motor fuel.

34 (3) For the purposes of this section, the definitions in RCW
35 82.04.4334 and 82.08.955 apply.

36 (4) Every taxpayer claiming an exemption under this section must
37 file a complete annual survey with the department under RCW
38 82.32.585.

39 (5) This section expires July 1, ((2015)) 2025.

1 **Sec. 107.** RCW 82.29A.135 and 2010 1st sp.s. c 11 s 6 are each
2 amended to read as follows:

3 (1) (~~(For the purposes of this section:)~~) The definitions in this
4 subsection apply throughout this section unless the context clearly
5 requires otherwise.

6 (a) (~~("Alcohol fuel" means any alcohol made from a product other~~
7 ~~than petroleum or natural gas, which is used alone or in combination~~
8 ~~with gasoline or other petroleum products for use as a fuel for motor~~
9 ~~vehicles, farm implements, and machines or implements of husbandry))~~
10 "Alcohol fuel," "biodiesel fuel," and "biodiesel feedstock" have the
11 same meanings as provided in RCW 84.36.635.

12 (b) "Anaerobic digester" has the same meaning as provided in RCW
13 82.08.900.

14 (c) (~~("Biodiesel feedstock" means oil that is produced from an~~
15 ~~agricultural crop for the sole purpose of ultimately producing~~
16 ~~biodiesel fuel.~~

17 (d) ~~"Biodiesel fuel" means a mono alkyl ester of long chain fatty~~
18 ~~acids derived from vegetable oils or animal fats for use in~~
19 ~~compression ignition engines and that meets the requirements of the~~
20 ~~American society of testing and materials specification D 6751 in~~
21 ~~effect as of January 1, 2003.~~

22 (e)) "Wood biomass fuel" means a pyrolytic liquid fuel or
23 synthesis gas-derived liquid fuel, used in internal combustion
24 engines, and produced from wood, forest, or field residue, or
25 dedicated energy crops that do not include wood pieces that have been
26 treated with chemical preservatives such as creosote,
27 pentachlorophenol, or copper-chrome-arsenic.

28 (2)(a) All leasehold interests in buildings, machinery,
29 equipment, and other personal property which are used primarily for
30 the manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel,
31 biodiesel feedstock, or the operation of an anaerobic digester, the
32 land upon which this property is located, and land that is reasonably
33 necessary in the manufacturing of alcohol fuel, wood biomass fuel,
34 biodiesel fuel, biodiesel feedstock, or the operation of an anaerobic
35 digester, but not land necessary for growing of crops, which together
36 comprise a new manufacturing facility or an addition to an existing
37 manufacturing facility, are exempt from leasehold taxes for a period
38 of six years from the date on which the facility or the addition to
39 the existing facility becomes operational.

1 (b) For manufacturing facilities which produce products in
2 addition to alcohol fuel, wood biomass fuel, biodiesel fuel, or
3 biodiesel feedstock, the amount of the leasehold tax exemption is
4 based upon the annual percentage of the total value of all products
5 manufactured that is the value of the alcohol fuel, wood biomass
6 fuel, biodiesel fuel, and biodiesel feedstock manufactured.

7 (3) Claims for exemptions authorized by this section must be
8 filed with the department (~~(of revenue)~~) on forms prescribed by the
9 department (~~(of revenue)~~) and furnished by the department (~~(of~~
10 ~~revenue)~~). Once filed, the exemption is valid for six years and may
11 not be renewed. The department (~~(of revenue)~~) must verify and approve
12 claims as the department (~~(of revenue)~~) determines to be justified
13 and in accordance with this section. No claims may be filed after
14 December 31, (~~(2015)~~) 2025, except for claims for anaerobic
15 digesters, which may be filed no later than December 31, 2012.

16 (4) The department (~~(of revenue)~~) may promulgate (~~(such)~~) rules,
17 pursuant to chapter 34.05 RCW, as are necessary to properly
18 administer this section.

19 **Sec. 108.** RCW 82.29A.135 and 2010 1st sp.s. c 11 s 6 are each
20 amended to read as follows:

21 (1) (~~(For the purposes of this section:)~~) The definitions in this
22 subsection apply throughout this section unless the context clearly
23 requires otherwise.

24 (a) "Alcohol fuel" means any alcohol made from a product other
25 than petroleum or natural gas, which is used alone or in combination
26 with gasoline or other petroleum products for use as a fuel for motor
27 vehicles, farm implements, and machines or implements of husbandry.

28 (b) "Anaerobic digester" has the same meaning as provided in RCW
29 82.08.900.

30 (c) "Biodiesel feedstock" means oil that is produced from an
31 agricultural crop harvested exclusively from North America for the
32 sole purpose of ultimately producing biodiesel fuel.

33 (d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
34 acids derived from vegetable oils or animal fats sourced exclusively
35 from North America for use in compression-ignition engines and that
36 meets the requirements of the American society of testing and
37 materials specification D 6751 in effect as of January 1, 2003.

38 (e) "Wood biomass fuel" means a pyrolytic liquid fuel or
39 synthesis gas-derived liquid fuel, used in internal combustion

1 engines, and produced from wood, forest, or field residue harvested
2 exclusively from North America, or dedicated energy crops that do not
3 include wood pieces that have been treated with chemical
4 preservatives such as creosote, pentachlorophenol, or copper-chrome-
5 arsenic.

6 (2)(a) All leasehold interests in buildings, machinery,
7 equipment, and other personal property which are used primarily for
8 the manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel,
9 biodiesel feedstock, or the operation of an anaerobic digester, the
10 land upon which this property is located, and land that is reasonably
11 necessary in the manufacturing of alcohol fuel, wood biomass fuel,
12 biodiesel fuel, biodiesel feedstock, or the operation of an anaerobic
13 digester, but not land necessary for growing of crops, which together
14 comprise a new manufacturing facility or an addition to an existing
15 manufacturing facility, are exempt from leasehold taxes for a period
16 of six years from the date on which the facility or the addition to
17 the existing facility becomes operational.

18 (b) For manufacturing facilities which produce products in
19 addition to alcohol fuel, wood biomass fuel, biodiesel fuel, or
20 biodiesel feedstock, the amount of the leasehold tax exemption is
21 based upon the annual percentage of the total value of all products
22 manufactured that is the value of the alcohol fuel, wood biomass
23 fuel, biodiesel fuel, and biodiesel feedstock manufactured.

24 (3) Claims for exemptions authorized by this section must be
25 filed with the department (~~(of revenue)~~) on forms prescribed by the
26 department (~~(of revenue)~~) and furnished by the department (~~(of~~
27 ~~revenue)~~). Once filed, the exemption is valid for six years and may
28 not be renewed. The department (~~(of revenue)~~) must verify and approve
29 claims as the department (~~(of revenue)~~) determines to be justified
30 and in accordance with this section. No claims may be filed after
31 December 31, (~~(2015)~~) 2025, except for claims for anaerobic
32 digesters, which may be filed no later than December 31, 2012.

33 (4) The department (~~(of revenue)~~) may promulgate (~~(such)~~) rules,
34 pursuant to chapter 34.05 RCW, as are necessary to properly
35 administer this section.

36 **Sec. 109.** RCW 84.36.635 and 2010 1st sp.s. c 11 s 4 are each
37 amended to read as follows:

1 (1) (~~For the purposes of this section:~~) The definitions in this
2 subsection apply throughout this section unless the context clearly
3 requires otherwise.

4 (a) "Alcohol fuel" means any alcohol made from a product other
5 than petroleum or natural gas, which is used alone or in combination
6 with gasoline or other petroleum products for use as a fuel for motor
7 vehicles, farm implements, and machines or implements of husbandry.

8 (b) "Anaerobic digester" has the same meaning as provided in RCW
9 82.08.900.

10 (c) "Biodiesel feedstock" means (~~oil that is produced from an~~
11 ~~agricultural crop for the sole purpose of ultimately producing~~) a
12 vegetable oil or animal fat that is used to manufacture biodiesel
13 fuel.

14 (d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
15 acids derived from vegetable oils or animal fats for use in
16 compression-ignition engines and that meets the (~~requirements of the~~
17 ~~American society of testing and materials specification D 6751 in~~
18 ~~effect as of January 1, 2003~~) fuel standards adopted under chapter
19 19.112 RCW.

20 (2)(a) All buildings, machinery, equipment, and other personal
21 property which are used primarily for the manufacturing of alcohol
22 fuel, biodiesel fuel, biodiesel feedstock, or the operation of an
23 anaerobic digester, the land upon which this property is located, and
24 land that is reasonably necessary in the manufacturing of alcohol
25 fuel, biodiesel fuel, biodiesel feedstock, or the operation of an
26 anaerobic digester, but not land necessary for growing of crops,
27 which together comprise a new manufacturing facility or an addition
28 to an existing manufacturing facility, are exempt from property
29 taxation for the six assessment years following the date on which the
30 facility or the addition to the existing facility becomes
31 operational.

32 (b) For manufacturing facilities which produce products in
33 addition to alcohol fuel, biodiesel fuel, or biodiesel feedstock, the
34 amount of the property tax exemption is based upon the annual
35 percentage of the total value of all products manufactured that is
36 the value of the alcohol fuel, biodiesel fuel, and biodiesel
37 feedstock manufactured.

38 (3) Claims for exemptions authorized by this section must be
39 filed with the county assessor on forms prescribed by the department
40 (~~of revenue~~) and furnished by the assessor. Once filed, the

1 exemption is valid for six years and may not be renewed. The assessor
2 must verify and approve claims as the assessor determines to be
3 justified and in accordance with this section. No claims may be filed
4 after December 31, (~~2015~~) 2025, except for claims for anaerobic
5 digesters, which may be filed no later than December 31, 2012.

6 (4) The department (~~of revenue~~) may promulgate (~~such~~) rules,
7 pursuant to chapter 34.05 RCW, as necessary to properly administer
8 this section.

9 **Sec. 110.** RCW 84.36.635 and 2010 1st sp.s. c 11 s 4 are each
10 amended to read as follows:

11 (1) (~~For the purposes of this section:~~) The definitions in this
12 subsection apply throughout this section unless the context clearly
13 requires otherwise.

14 (a) "Alcohol fuel" means any alcohol made from a product other
15 than petroleum or natural gas, which is used alone or in combination
16 with gasoline or other petroleum products for use as a fuel for motor
17 vehicles, farm implements, and machines or implements of husbandry.

18 (b) "Anaerobic digester" has the same meaning as provided in RCW
19 82.08.900.

20 (c) "Biodiesel feedstock" means oil that is produced from an
21 agricultural crop harvested exclusively from North America for the
22 sole purpose of ultimately producing biodiesel fuel.

23 (d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
24 acids derived from vegetable oils or animal fats sourced exclusively
25 from North America for use in compression-ignition engines and that
26 meets the requirements of the American society of testing and
27 materials specification D 6751 in effect as of January 1, 2003.

28 (2)(a) All buildings, machinery, equipment, and other personal
29 property which are used primarily for the manufacturing of alcohol
30 fuel, biodiesel fuel, biodiesel feedstock, or the operation of an
31 anaerobic digester, the land upon which this property is located, and
32 land that is reasonably necessary in the manufacturing of alcohol
33 fuel, biodiesel fuel, biodiesel feedstock, or the operation of an
34 anaerobic digester, but not land necessary for growing of crops,
35 which together comprise a new manufacturing facility or an addition
36 to an existing manufacturing facility, are exempt from property
37 taxation for the six assessment years following the date on which the
38 facility or the addition to the existing facility becomes
39 operational.

1 (b) For manufacturing facilities which produce products in
2 addition to alcohol fuel, biodiesel fuel, or biodiesel feedstock, the
3 amount of the property tax exemption is based upon the annual
4 percentage of the total value of all products manufactured that is
5 the value of the alcohol fuel, biodiesel fuel, and biodiesel
6 feedstock manufactured.

7 (3) Claims for exemptions authorized by this section must be
8 filed with the county assessor on forms prescribed by the department
9 ((~~of revenue~~)) and furnished by the assessor. Once filed, the
10 exemption is valid for six years and may not be renewed. The assessor
11 must verify and approve claims as the assessor determines to be
12 justified and in accordance with this section. No claims may be filed
13 after December 31, ((2015)) 2025, except for claims for anaerobic
14 digesters, which may be filed no later than December 31, 2012.

15 (4) The department ((~~of revenue~~)) may promulgate ((~~such~~)) rules,
16 pursuant to chapter 34.05 RCW, as necessary to properly administer
17 this section.

18 **PART II**

19 **Biomass Tax Incentives**

20 NEW SECTION. **Sec. 201.** It is the intent of the legislature to
21 utilize Washington's abundant forest resources to promote diversified
22 renewable energy use, and to promote healthy, fire resistant forests
23 in the state. This section is the tax preference performance
24 statement for the tax preference contained in RCW 82.04.4494. This
25 performance statement is only intended to be used for subsequent
26 evaluation of the tax preference. It is not intended to create a
27 private right of action by any party or be used to determine
28 eligibility for preferential tax treatment.

29 (1) The legislature categorizes this tax preference as one
30 intended to induce certain designated behavior by taxpayers, as
31 indicated in RCW 82.32.808(2)(a).

32 (2) It is the legislature's specific public policy objective to
33 promote the production of steam, heat, electricity, or biofuel using
34 forest derived biomass that is renewable and has been deemed carbon
35 neutral under RCW 70.235.020(3), and can thereby replace the use of
36 fossil fuel to produce energy and thereby help with achieving the
37 state's renewable energy and greenhouse gas emissions targets;
38 further, the use of forest derived biomass used to produce energy

1 will help defray the cost of forest thinning thereby improving forest
2 health and reducing the threat of wildfires. It is the legislature's
3 intent to provide a forest derived biomass credit in order to
4 encourage the harvesting, collection, and utilization of the more
5 than eleven million tons of forest derived biomass available
6 annually, thereby producing renewable, carbon neutral energy, thereby
7 helping the state achieve its renewable energy targets, its
8 greenhouse gas emissions targets, improve forest health and reduce
9 the threat of wildfires.

10 (3) If a review finds that the amount of forest derived biomass
11 collected and utilized to produce energy between July 1, 2015, and
12 June 30, 2024, increases by at least an average annual rate of ten
13 percent per year, then the legislature intends to extend the
14 expiration date of the tax preference.

15 (4) In order to obtain the data necessary to perform the review
16 in subsection (3) of this section, the joint legislative audit and
17 review committee may refer to the total green tons of forest derived
18 biomass harvested data available from the department of revenue and
19 any other data source it deems necessary.

20 **Sec. 202.** RCW 82.04.4494 and 2009 c 469 s 401 are each amended
21 to read as follows:

22 (1) In computing the tax imposed under this chapter, harvesters
23 are allowed a credit against the amount of tax otherwise due under
24 this chapter(~~(, as provided in this section)~~) for forest derived
25 biomass harvested after July 1, 2013. The credit per harvested green
26 ton of forest derived biomass sold, transferred, or used for
27 production of electricity, steam, heat, or biofuel is (~~as follows:~~

28 ~~(a) For forest derived biomass harvested October 1, 2009, through~~
29 ~~June 30, 2010, zero dollars;~~

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

32 ~~(c) For forest derived biomass harvested July 1, 2013, through~~
33 ~~June 30, 2015,~~) five dollars.

34 (2) Credit may not be claimed for forest derived biomass sold,
35 transferred, or used before July 1, 2009. The amount of credit
36 allowed for a reporting period may not exceed the tax otherwise due
37 under this chapter for that reporting period. Any unused excess
38 credit in a reporting period may be carried forward to future
39 reporting periods for a maximum of two years.

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

4 (4) Every taxpayer claiming a credit under this section must file
5 a complete annual survey with the department under RCW 82.32.585.

6 (5) This section expires June 30, ((2015)) 2025.

7 **Sec. 203.** RCW 82.04.4494 and 2009 c 469 s 401 are each amended
8 to read as follows:

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

14 ~~(a) For forest derived biomass harvested October 1, 2009, through~~
15 ~~June 30, 2010, zero dollars;~~

16 ~~(b) For forest derived biomass harvested July 1, 2010, through~~
17 ~~June 30, 2013, three dollars;~~

18 ~~(c) For forest derived biomass harvested July 1, 2013, through~~
19 ~~June 30, 2015,)) five dollars.~~

20 (2) Credit may not be claimed for forest derived biomass sold,
21 transferred, or used before July 1, 2009. The amount of credit
22 allowed for a reporting period may not exceed the tax otherwise due
23 under this chapter for that reporting period. Any unused excess
24 credit in a reporting period may be carried forward to future
25 reporting periods for a maximum of two years.

26 (3) For the purposes of this section, "harvested" and
27 "harvesters" are defined in RCW 84.33.035, and "biofuel" ((is defined
28 in RCW 43.325.010)) includes, but is not limited to, biodiesel,
29 ethanol, and ethanol blend fuels derived from materials sourced
30 exclusively from North America, and renewable liquid natural gas or
31 liquid compressed natural gas made from biogas.

32 (4) Every taxpayer claiming a deduction under this section must
33 file a complete annual survey with the department under RCW
34 82.32.585.

35 (5) This section expires June 30, ((2015)) 2025.

36 **PART III**

37 **Energy Conservation Payments from Bonneville Power Administration**

1 NEW SECTION. **Sec. 301.** This section is the tax preference
2 performance statement for the tax preference contained in section 302
3 of this act. The performance statement is only intended to be used
4 for subsequent evaluation of the tax preference. It is not intended
5 to create a private right of action by any party or be used to
6 determine eligibility for preferential tax treatment.

7 (1) The legislature categorizes this tax preference as one
8 intended to induce certain designated behavior by taxpayers, as
9 indicated in RCW 82.32.808(2)(a).

10 (2) It is the legislature's specific public policy objective to
11 increase investment in energy efficiency and conservation programs,
12 and to support efforts by utilities to acquire all cost-effective
13 energy conservation as required under state law. To support this
14 objective, it is the legislature's intent to extend the expiration
15 date of the exemption from business and occupation tax amounts
16 received by utilities in the form of credits against power contracts
17 or received from the Bonneville power administration for energy
18 conservation purposes, thereby inducing utilities to invest funds in
19 energy conservation and efficiency programs, thereby reducing the
20 amount of electric energy that such utilities must either generate or
21 purchase, thereby reducing energy costs to utilities and customers.

22 (3) To measure the effectiveness of the exemption in section 302
23 of this act in achieving the public policy objectives described in
24 subsection (2) of this section, the joint legislative audit and
25 review committee must evaluate the number of taxpayers that claim the
26 exemption and the amount of investment made by utilities in energy
27 conservation and efficiency programs.

28 (4) The joint legislative audit and review committee may use data
29 from the department of revenue, the utilities and transportation
30 commission, and any other data it deems necessary in performing the
31 evaluation under subsection (3) of this section.

32 **Sec. 302.** RCW 82.04.310 and 2014 c 216 s 302 are each amended to
33 read as follows:

34 (1) This chapter does not apply to any person in respect to a
35 business activity with respect to which tax liability is specifically
36 imposed under the provisions of chapter 82.16 RCW including amounts
37 derived from activities for which a deduction is allowed under RCW
38 82.16.050. The exemption in this subsection does not apply to sales
39 of natural gas, including compressed natural gas and liquefied

1 natural gas, by a gas distribution business, if such sales are exempt
2 from the tax imposed under chapter 82.16 RCW as provided in RCW
3 82.16.310.

4 (2) This chapter does not apply to amounts received by any person
5 for the sale of electrical energy for resale within or outside the
6 state.

7 (3)(a) This chapter does not apply to amounts received by any
8 person for the sale of natural or manufactured gas in a calendar year
9 if that person sells within the United States a total amount of
10 natural or manufactured gas in that calendar year that is no more
11 than twenty percent of the amount of natural or manufactured gas that
12 it consumes within the United States in the same calendar year.

13 (b) For purposes of determining whether a person has sold within
14 the United States a total amount of natural or manufactured gas in a
15 calendar year that is no more than twenty percent of the amount of
16 natural or manufactured gas that it consumes within the United States
17 in the same calendar year, the following transfers of gas are not
18 considered to be the sale of natural or manufactured gas:

19 (i) The transfer of any natural or manufactured gas as a result
20 of the acquisition of another business, through merger or otherwise;
21 or

22 (ii) The transfer of any natural or manufactured gas accomplished
23 solely to comply with federal regulatory requirements imposed on the
24 pipeline transportation of such gas when it is shipped by a third-
25 party manager of a person's pipeline transportation.

26 (4) Until July 1, 2025, this chapter does not apply to amounts
27 received by any person in the form of credits against power contracts
28 with the Bonneville power administration, or funds provided by the
29 Bonneville power administration, for the purpose of implementing
30 energy conservation programs or demand-side management programs.

31 **PART IV**

32 **Miscellaneous Provisions**

33 NEW SECTION. **Sec. 401.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of
35 the state government and its existing public institutions, and takes
36 effect July 1, 2015.

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