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**SENATE BILL 5540**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Braun and Wilson, L.

Read first time 01/23/19. Referred to Committee on State Government,  
Tribal Relations & Elections.

1 AN ACT Relating to the designation and support of projects of  
2 statewide significance; amending RCW 43.157.005, 43.157.010,  
3 43.157.020, 43.157.030, and 82.32.600; adding a new section to  
4 chapter 43.157 RCW; adding a new chapter to Title 82 RCW; creating  
5 new sections; providing an effective date; and declaring an  
6 emergency.

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

8 **Sec. 1.** RCW 43.157.005 and 2009 c 421 s 1 are each amended to  
9 read as follows:

10 The legislature declares that certain private investments (~~(, such~~  
11 ~~as investments for industrial development, environmental improvement,~~  
12 ~~and innovation activities,)~~) merit special designation and treatment  
13 by governmental bodies when they are proposed. Such investments  
14 bolster the economies of their locale by creating jobs and ~~((impact))~~  
15 improving the economy ~~((of the state as a whole))~~ at both the local  
16 and state levels. It is the intention of the legislature to recognize  
17 projects of statewide significance and to encourage local governments  
18 and state agencies to expedite their completion.

19 **Sec. 2.** RCW 43.157.010 and 2017 c 288 s 2 are each amended to  
20 read as follows:

1       (~~The definitions in this section apply throughout this chapter~~  
2 ~~and RCW 28A.525.166, 43.21A.350, and 90.58.100, unless the context~~  
3 ~~requires otherwise:~~

4       ~~(1) "Applicant" means a person applying to the department for~~  
5 ~~designation of a development project as a project of statewide~~  
6 ~~significance.~~

7       ~~(2) "Aviation biofuels production facility" means a facility~~  
8 ~~primarily for the processing of nonfossil biogenic feedstocks to~~  
9 ~~produce aviation fuels that meet the fuel quality technical standards~~  
10 ~~of the American society for testing materials for aviation fuels and~~  
11 ~~coproducts.~~

12       ~~(3) "Department" means the department of commerce.~~

13       ~~(4) "Manufacturing" shall have the meaning assigned it in RCW~~  
14 ~~82.62.010.~~

15       ~~(5) (a) "Project of statewide significance" means(:~~

16       ~~(i) A border crossing project that involves both private and~~  
17 ~~public investments carried out in conjunction with adjacent states or~~  
18 ~~provinces;~~

19       ~~(ii) A development project that will provide a net environmental~~  
20 ~~benefit;~~

21       ~~(iii) A development project in furtherance of the~~  
22 ~~commercialization of innovations;~~

23       ~~(iv) A private industrial development with private capital~~  
24 ~~investment in manufacturing or research and development;~~

25       ~~(v) An aviation biofuels production facility; or~~

26       ~~(vi) A project designated by the legislature and codified under~~  
27 ~~this chapter.~~

28       ~~(b) To qualify for designation under RCW 43.157.030 as a project~~  
29 ~~of statewide significance:~~

30       ~~(i) The project must be completed after January 1, 2009;~~

31       ~~(ii) The applicant must submit an application to the department~~  
32 ~~for designation as a project of statewide significance to the~~  
33 ~~department of commerce; and~~

34       ~~(iii) Except for an aviation biofuels production facility, the~~  
35 ~~project must have:~~

36       ~~(A) In counties with a population less than or equal to twenty~~  
37 ~~thousand, a capital investment of five million dollars;~~

38       ~~(B) In counties with a population greater than twenty thousand~~  
39 ~~but no more than fifty thousand, a capital investment of ten million~~  
40 ~~dollars;~~

1       ~~(C) In counties with a population greater than fifty thousand but~~  
2 ~~no more than one hundred thousand, a capital investment of fifteen~~  
3 ~~million dollars;~~

4       ~~(D) In counties with a population greater than one hundred~~  
5 ~~thousand but no more than two hundred thousand, a capital investment~~  
6 ~~of twenty million dollars;~~

7       ~~(E) In counties with a population greater than two hundred~~  
8 ~~thousand but no more than four hundred thousand, a capital investment~~  
9 ~~of thirty million dollars;~~

10       ~~(F) In counties with a population greater than four hundred~~  
11 ~~thousand but no more than one million, a capital investment of forty~~  
12 ~~million dollars;~~

13       ~~(G) In counties with a population greater than one million, a~~  
14 ~~capital investment of fifty million dollars;~~

15       ~~(H) In rural counties as defined by RCW 82.14.370, projected~~  
16 ~~full-time employment positions after completion of construction of~~  
17 ~~fifty or greater;~~

18       ~~(I) In counties other than rural counties as defined by RCW~~  
19 ~~82.14.370, projected full-time employment positions after completion~~  
20 ~~of construction of one hundred or greater; or~~

21       ~~(J) Been qualified by the director of the department as a project~~  
22 ~~of statewide significance either because:~~

23       ~~(I) The economic circumstances of the county merit the additional~~  
24 ~~assistance such designation will bring;~~

25       ~~(II) The impact on a region due to the size and complexity of the~~  
26 ~~project merits such designation;~~

27       ~~(III) The project resulted from or is in furtherance of~~  
28 ~~innovation activities at a public research institution in the state~~  
29 ~~or is in or resulted from innovation activities within an innovation~~  
30 ~~partnership zone; or~~

31       ~~(IV) The project will provide a net environmental benefit as~~  
32 ~~evidenced by plans for design and construction under green building~~  
33 ~~standards or for the creation of renewable energy technology or~~  
34 ~~components or under other environmental criteria established by the~~  
35 ~~director in consultation with the director of the department of~~  
36 ~~ecology.~~

37       ~~A project may be qualified under this subsection (5) (b) (iii) (J)~~  
38 ~~only after consultation on the availability of staff resources of the~~  
39 ~~office of regulatory assistance.~~

1 ~~(6) "Research and development" shall have the meaning assigned it~~  
2 ~~in RCW 82.62.010.)~~ (1) (a) The definition in this subsection applies  
3 throughout this chapter and RCW 28A.525.166, 43.21A.350, and  
4 90.58.100 unless the context clearly requires otherwise.

5 (b) "Project of statewide significance" means a project  
6 designated by the department under this chapter as a project of  
7 statewide significance.

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

10 (a) "Department" means the department of commerce.

11 (b) "Person" has the same meaning as provided in RCW 82.04.030.

12 NEW SECTION. Sec. 3. A new section is added to chapter 43.157  
13 RCW to read as follows:

14 (1) A person must apply to the department for a proposed  
15 development project to receive designation as a project of statewide  
16 significance.

17 (2) A project of statewide significance must be completed after  
18 January 1, 2020.

19 (3) A project of statewide significance must be a private  
20 development with private capital investment in:

21 (a) Manufacturing;

22 (b) Research and development;

23 (c) A computer data center;

24 (d) Renewable energy generation; or

25 (e) Facilities to store and handle goods moved through Washington  
26 ports including but not limited to grain elevators, cranes, and cargo  
27 handling facilities.

28 (4) A project of statewide significance must meet the following  
29 investment criteria:

30 (a) In counties with a population less than or equal to twenty  
31 thousand, a private capital investment of five million dollars;

32 (b) In counties with a population greater than twenty thousand  
33 but no more than fifty thousand, a private capital investment of ten  
34 million dollars;

35 (c) In counties with a population greater than fifty thousand but  
36 no more than one hundred thousand, a private capital investment of  
37 fifteen million dollars;

1 (d) In counties with a population greater than one hundred  
2 thousand but no more than two hundred thousand, a private capital  
3 investment of twenty million dollars;

4 (e) In counties with a population greater than two hundred  
5 thousand but no more than four hundred thousand, a private capital  
6 investment of thirty million dollars;

7 (f) In counties with a population greater than four hundred  
8 thousand but no more than one million, a private capital investment  
9 of fifty million dollars;

10 (g) In counties with a population greater than one million, a  
11 private capital investment of one hundred million dollars.

12 (5) A project of statewide significance must meet the following  
13 employment criteria:

14 (a) In a rural county, have projected full-time employment  
15 positions after construction of fifty or greater.

16 (b) In a county that is not rural, have projected full-time  
17 employment positions after construction of two hundred fifty or  
18 greater.

19 (6) The department must develop application materials and other  
20 forms to administer this chapter.

21 (7) If the department determines that a project meets the  
22 requirements in this chapter, the department will approve the  
23 application and designate the project as a project of statewide  
24 significance.

25 (8) For purposes of this section, the following definitions  
26 apply:

27 (a) (i) "Computer data center" means a facility comprised of one  
28 or more buildings constructed or refurbished specifically, and used  
29 primarily, to house working servers, where the facility has the  
30 following characteristics: (A) Uninterruptible power supplies,  
31 generator backup power, or both; (B) sophisticated fire suppression  
32 and prevention systems; and (C) enhanced physical security, such as:  
33 Restricted access to the facility to selected personnel; permanent  
34 security guards; video camera surveillance; an electronic system  
35 requiring passcodes, keycards, or biometric scans, such as hand scans  
36 and retinal or fingerprint recognition; or similar security features.

37 (ii) For purposes of this subsection (8)(a), "server" includes  
38 blade and rack-mount servers used in a computer data center  
39 exclusively to provide data processing and storage services for  
40 internal use by the owner or lessee of the computer data center, for

1 clients of the owner or lessee of the computer data center, or both.  
2 "Servers" do not include personal computers. "Data processing and  
3 storage services" means providing data storage and backup, providing  
4 computer processing power, and hosting enterprise software  
5 applications. The term also includes hosting web sites.

6 (b) "Manufacturing" and "research and development" have the same  
7 meaning as provided in RCW 82.62.010.

8 (c) "Project" means private investment in facilities and  
9 equipment that occur within a single area within a five-mile radius.

10 (d) "Renewable energy generation" means the type of energy  
11 generation described in RCW 82.08.962(1)(a).

12 (e) "Rural county" has the same meaning as provided in RCW  
13 82.14.370.

14 **Sec. 4.** RCW 43.157.020 and 2009 c 421 s 3 are each amended to  
15 read as follows:

16 ~~((Counties and cities with development projects designated as  
17 projects of statewide significance within their jurisdictions shall  
18 enter into an agreement with the office of regulatory assistance and  
19 the project managers of projects of statewide significance for  
20 expediting the completion of projects of statewide significance. The  
21 agreement shall require:~~

22 ~~(1) Expedited permit processing for the design and construction  
23 of the project;~~

24 ~~(2) Expedited environmental review processing;~~

25 ~~(3) Expedited processing of requests for street, right-of-way, or  
26 easement vacations necessary for the construction of the project;~~

27 ~~(4) Participation of local officials on the team assembled under  
28 the requirements of RCW 43.157.030(2)(b); and~~

29 ~~(5) Such other actions or items as are deemed necessary by the  
30 office of regulatory assistance for the design and construction of  
31 the project.)~~

32 (1) The office of regulatory assistance must assign a  
33 regional assistance lead to each project of statewide significance  
34 to:

35 (a) Lead the state permit scoping and coordinating functions  
36 provided for in chapter 43.42 RCW;

37 (b) Assemble a team of local, state, and, when possible, federal  
38 agency representatives to work with the project proponents to help  
39 meet the planning, permitting, and development needs of the project.  
The team must include those responsible for planning, permitting and

1 licensing, infrastructure development, workforce development  
2 services, transportation services, and the provision of utilities;  
3 and

4 (c) Work with each team member as they may request to help  
5 expedite decision making.

6 (2) State agencies must enter into agreements with the office of  
7 regulatory assistance and the project proponents as required by the  
8 fully coordinated permit process set forth in RCW 43.42.060. In cases  
9 where a project proponent enters into a cost-reimbursement agreement  
10 with an agency and with the office of regulatory assistance, the  
11 state agency must expedite decision making related to the project.

12 **Sec. 5.** RCW 43.157.030 and 2017 c 288 s 3 are each amended to  
13 read as follows:

14 (1) ~~((The department of commerce shall:~~

15 ~~(a) Develop an application for designation of development~~  
16 ~~projects as projects of statewide significance. The application must~~  
17 ~~be accompanied by a letter of approval from the legislative authority~~  
18 ~~of any jurisdiction that will have the proposed project of statewide~~  
19 ~~significance within its boundaries. No designation of a project as a~~  
20 ~~project of statewide significance shall be made without such letter~~  
21 ~~of approval. The letter of approval must state that the jurisdiction~~  
22 ~~joins in the request for the designation of the project as one of~~  
23 ~~statewide significance and has or will hire the professional staff~~  
24 ~~that will be required to expedite the processes necessary to the~~  
25 ~~completion of a project of statewide significance. The development~~  
26 ~~project proponents may provide the funding necessary for the~~  
27 ~~jurisdiction to hire the professional staff that will be required to~~  
28 ~~so expedite. The application shall contain information regarding the~~  
29 ~~location of the project, the applicant's average employment in the~~  
30 ~~state for the prior year, estimated new employment related to the~~  
31 ~~project, estimated wages of employees related to the project,~~  
32 ~~estimated time schedules for completion and operation, and other~~  
33 ~~information required by the department; and~~

34 ~~(b) Designate a development project as a project of statewide~~  
35 ~~significance if the department determines:~~

36 ~~(i) After review of the application under criteria adopted by~~  
37 ~~rule, the development project will provide significant economic~~  
38 ~~benefit to the local or state economy, or both, the project is~~  
39 ~~aligned with the state's comprehensive plan for economic development~~

1 ~~under RCW 43.162.020, and, by its designation, the project will not~~  
2 ~~prevent equal consideration of all categories of proposals under RCW~~  
3 ~~43.157.010; and~~

4 ~~(ii) The development project meets or will meet the requirements~~  
5 ~~of RCW 43.157.010 regarding designation as a project of statewide~~  
6 ~~significance.~~

7 ~~(2) Any project designated by the legislature and codified in~~  
8 ~~this chapter is not subject to the application requirements set out~~  
9 ~~in subsection (1) of this section.~~

10 ~~(3) The office of regulatory assistance shall assign a project~~  
11 ~~facilitator or coordinator to each project of statewide significance~~  
12 ~~to:~~

13 ~~(a) Assist in the scoping and coordinating functions provided for~~  
14 ~~in chapter 43.42 RCW;~~

15 ~~(b) Assemble a team of state and local government and private~~  
16 ~~officials to help meet the planning, permitting, and development~~  
17 ~~needs of each project, which team shall include those responsible for~~  
18 ~~planning, permitting and licensing, infrastructure development,~~  
19 ~~workforce development services including higher education,~~  
20 ~~transportation services, and the provision of utilities; and~~

21 ~~(c) Work with each team member to expedite their actions in~~  
22 ~~furtherance of the project.)) An application for designation as a~~  
23 ~~project of statewide significance must be accompanied by a letter~~  
24 ~~from the jurisdiction that will have primary responsibility over the~~  
25 ~~local permitting process for the proposed project. The letter must~~  
26 ~~state that the jurisdiction has or will hire the professional staff~~  
27 ~~to expedite local decision making for the project. The proponents of~~  
28 ~~the proposed project may provide the funding necessary for the~~  
29 ~~jurisdiction to hire or replace the professional staff necessary to~~  
30 ~~expedite the local decision-making process. The letter from the local~~  
31 ~~jurisdiction must not provide or represent a guarantee of project~~  
32 ~~approval and must reserve to the jurisdiction authority to deny or~~  
33 ~~require modification to proposed projects of statewide significance.~~  
34 ~~The letter from the local jurisdiction must also include agreement to~~  
35 ~~work with the office of regulatory assistance on the team assembled~~  
36 ~~pursuant to RCW 43.157.020 to help expedite decision making for the~~  
37 ~~project.~~

38 ~~(2) For purposes of this section, "local jurisdiction" means a~~  
39 ~~city or county.~~



1        NEW SECTION.    **Sec. 6.**    (1) Subject to the requirements and limits  
2 in this section, a person that invests in a qualifying project may  
3 claim a credit against the tax imposed in chapter 82.04 or 82.16 RCW  
4 equal to five percent of the lesser of the projected or actual  
5 qualified initial capital costs of the qualifying project.

6        (2) (a) A person seeking the credit under this section must apply  
7 to the department of commerce for approval to claim the credit in  
8 conjunction with seeking designation of a project as a project of  
9 statewide significance under chapter 43.157 RCW.

10        (b) The department of commerce must notify the department of each  
11 application approved under (a) of this subsection. The notification  
12 must include the projected qualified initial capital costs, the  
13 estimated credit amount, the projected date for initiation of  
14 construction of the qualifying project, the number of full-time  
15 employees employed by the person in this state, and other information  
16 as the department may require.

17        (c) The credit will apply only to projects for which the  
18 initiation of construction commences after the effective date of this  
19 section.

20        (d) No credit may be claimed against taxes accrued under chapter  
21 82.04 or 82.16 RCW before the effective date of this section.

22        (e) The credit must be claimed on a return filed electronically  
23 with the department using the department's online tax filing service,  
24 unless the department grants a waiver for good cause shown. For  
25 purposes of this subsection (2) (e), "good cause" has the same meaning  
26 as in RCW 82.32.080(8) (a) (i), (ii), (iii), and (vi), and (b).

27        (f) The total credit allowed under this section for a person may  
28 not exceed twenty-five million dollars.

29        (g) No more than twenty percent of the credit earned by a person  
30 may be claimed in any fiscal year.

31        (h) No more than twenty-five percent of the total credit approved  
32 under subsection (3) (c) of this section may be earned by projects  
33 located in counties with a population greater than one million.

34        (i) Unused credit may be carried forward until used. Refunds may  
35 not be granted in the place of a credit.

36        (3) (a) Credits are available on a first-in-time basis based on  
37 the time the application for credit was received by the department of  
38 commerce.

39        (b) The department must approve the amount of credit available  
40 for each person whose application for credit is approved by the

1 department of commerce and notify such person of the amount of  
2 approved credit.

3 (c) The total amount of credit that may be approved by the  
4 department may not exceed one hundred million dollars. If this  
5 limitation is reached, the department must notify the department of  
6 commerce and the legislature that the credit provided by this section  
7 is no longer available.

8 (4) Approved credit may not be claimed before the qualifying  
9 project is certified by the department as being operationally  
10 complete.

11 (5) Before approved credit may be claimed, a person approved for  
12 the credit must have:

13 (a) Met the applicable investment criterion in section 3(4) of  
14 this act, with respect to the qualifying project;

15 (b) Filled at least two hundred fifty full-time employment  
16 positions at the qualifying project or at least fifty full-time  
17 employment positions at the qualifying project if the qualifying  
18 project is located in a rural county; and

19 (c) Increased the number of full-time employees employed by the  
20 person in this state by at least two hundred fifty full-time  
21 employees or at least fifty full-time employees if the qualifying  
22 project is located in a rural county. In determining whether the  
23 person increased employment in this state by the requisite number of  
24 employees, current employment is measured against the number of full-  
25 time employees employed by the person in this state at the time the  
26 qualifying business applied to the department of commerce for  
27 approval to claim the credit under this section.

28 (6) If a person fails to maintain the employment levels required  
29 in subsection (5)(b) and (c) of this section for the entire calendar  
30 year in which the person claims approved credit under this section,  
31 the person must repay the amount of credit claimed for that year.  
32 Interest, but not penalties, applies to taxes that must be repaid  
33 under this subsection. Interest is imposed at the rate provided for  
34 delinquent excise taxes under chapter 82.32 RCW, retroactively to the  
35 date the credit was claimed, and accrues until the taxes against  
36 which the credit was claimed are repaid.

37 (7) Credit may not be claimed for expenditures for which a credit  
38 is claimed under any other provision of this title.

1 (8) No credit may be claimed against the taxes imposed in  
2 chapters 82.04 and 82.16 RCW for the same qualified initial capital  
3 costs.

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

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

7 (b) "Full time" means a normal workweek of at least thirty-five  
8 hours.

9 (c) "Initiation of construction" means the date that a building  
10 permit is issued under the building code adopted under RCW 19.27.031  
11 for construction of any part of the qualifying project. "Initiation  
12 of construction" does not include soil testing, site clearing and  
13 grading, site preparation, or any other related activities that are  
14 initiated before the issuance of a building permit for the  
15 construction of the foundation of any building that is part of the  
16 qualifying project.

17 (d) "Operationally complete" means the date the qualifying  
18 project is constructed or improved to the point of being functionally  
19 useable for all of its intended purposes.

20 (e) "Qualified initial capital costs" means the cost of property  
21 deductible under 26 U.S.C. Secs. 167 or 179 of the federal internal  
22 revenue code of 1986 as amended as of July 1, 2019, including the  
23 labor and services rendered in the planning, installation, and  
24 construction of the property, and purchased before the project is  
25 operationally complete. With respect to lessees, "qualified initial  
26 capital costs" also includes, for a capital lease, the amount  
27 recorded as an asset and an obligation by the lessee. "Qualified  
28 initial capital costs" do not include the cost of land.

29 (f) "Qualifying project" means a project that has been designated  
30 as a project of statewide significance by the department of commerce  
31 under chapter 43.157 RCW.

32 NEW SECTION. **Sec. 7.** (1) A person claiming the credit under  
33 section 6 of this act must report as required under RCW 82.32.534 and  
34 provide such additional information as the department may require to  
35 determine whether the person was eligible to claim the credit.

36 (2) If a person is required to repay credited taxes under section  
37 6(6) of this act, the person is not required to file an annual tax  
38 performance report as provided in subsection (1) of this section for

1 the calendar year for which the person is required to repay such  
2 taxes.

3 **Sec. 8.** RCW 82.32.600 and 2017 c 135 s 4 are each amended to  
4 read as follows:

5 (1) Persons required to file annual tax performance reports under  
6 RCW 82.32.534 or section 9 of this act must electronically file with  
7 the department all reports, returns, and any other forms or  
8 information the department requires in an electronic format as  
9 provided or approved by the department. As used in this section,  
10 "returns" has the same meaning as "return" in RCW 82.32.050.

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

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

17 NEW SECTION. **Sec. 9.** The department of revenue, in compliance  
18 with RCW 43.01.036, must submit a report to the finance committee of  
19 the house of representatives and the ways and means committee of the  
20 senate within one year after reaching the credit limitation created  
21 under section 6 of this act. The report must measure the effect of  
22 the credit on job creation, capital investment, net environmental  
23 impact, the commercialization of innovative projects, and such other  
24 factors as the department deems necessary to determine the  
25 effectiveness and use of credit funds.

26 NEW SECTION. **Sec. 10.** The employment security department must  
27 share, with the department, available information concerning the  
28 number and location of employees employed by persons claiming the  
29 credit provided in section 6 of this act.

30 NEW SECTION. **Sec. 11.** Chapter 82.32 RCW applies to the  
31 administration of this chapter.

32 NEW SECTION. **Sec. 12.** Sections 6, 7, 10, and 11 of this act  
33 constitute a new chapter in Title 82 RCW.

1        NEW SECTION.    **Sec. 13.**    Sections 6 through 11 of this act are  
2 necessary for the immediate preservation of the public peace, health,  
3 or safety, or support of the state government and its existing public  
4 institutions, and take effect July 1, 2019.

5        NEW SECTION.    **Sec. 14.**    The provisions of RCW 82.32.805 and  
6 82.32.808 do not apply to this act.

7        NEW SECTION.    **Sec. 15.**    Sections 1 through 5 of this act are  
8 necessary for the immediate preservation of the public peace, health,  
9 or safety, or support of the state government and its existing public  
10 institutions, and take effect immediately.

--- END ---