

SENATE BILL REPORT

ESHB 2482

As Passed Senate - Amended, March 1, 2024

Title: An act relating to reinstating semiconductor tax incentives.

Brief Description: Reinstating semiconductor tax incentives.

Sponsors: House Committee on Finance (originally sponsored by Representatives Harris, Santos and Stonier).

Brief History: Passed House: 2/12/24, 96-0.

Committee Activity: Business, Financial Services, Gaming & Trade: 2/15/24 [DP-WM, DNP].

Ways & Means: 2/22/24, 2/26/24 [DP, DNP, w/oRec].

Floor Activity: Passed Senate - Amended: 3/1/24, 47-1.

Brief Summary of Bill (As Amended by Senate)

- Reinstates six expired tax incentives for semiconductor manufacturing through 2034, conditional on new investments.
- Extends the expiration for two existing tax incentives for semiconductor manufacturing through 2034.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Stanford, Chair; Dozier, Ranking Member; Boehnke, Gildon, Lovick, MacEwen and Mullet.

Minority Report: Do not pass.

Signed by Senator Hasegawa.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Tianyi Lan (786-7432)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hunt, Keiser, Muzzall, Randall, Torres, Van De Wege, Wagoner and Wellman.

Minority Report: Do not pass.

Signed by Senator Hasegawa.

Minority Report: That it be referred without recommendation.

Signed by Senators Pedersen and Saldaña.

Staff: Tianyi Lan (786-7432)

Background: Retail Sales and Use Tax and Business and Occupation Tax. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. Both the state and local governments impose sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.1 percent, depending on the location. Unless specifically exempt, all transactions or uses of property or services in the tax base are subject to retail sales and use taxes.

The state business and occupation (B&O) tax is Washington's primary business tax. It is a gross receipts tax measured on the value of products, gross proceeds of sale, or gross income of the business. There are no deductions from the B&O tax for labor, materials, taxes, or other costs of doing business. A business may have more than one B&O tax rate, depending on the types of activities conducted. For example, the rate for most persons that conduct manufacturing or processing for hire activities is 0.484 percent. The state B&O tax includes a number of preferential tax rates, credits, exemptions, and deductions as well as several increased rates or surcharges.

Tax Preferences. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Washington has over 700 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a tax preference performance statement

that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Tax Incentives for Semiconductor Industry. Semiconductor manufacturing is the process of creating integrated circuits or microchips. Semiconductor materials are essential for the construction of electronic devices and the semiconductor industry. There are eight tax preferences related to the semiconductor materials manufacturing industry. Those tax preferences are provided for manufacturers of semiconductor materials and businesses that perform manufacturing services on semiconductor materials owned by others, known as processors for hire. Six tax preferences were contingent on a manufacturer making at least a \$1 billion investment in new buildings, machinery and equipment to site and operate a semiconductor microchip fabrication facility. Those preferences expired on January 1, 2024, because the contingent investment never occurred. The six preferences were:

- a sales and use tax exemption for labor, services, and sales of tangible personal property related to the construction of new buildings used for manufacturing semiconductor materials;
- a property tax exemption for machinery and equipment used in manufacturing semiconductor materials at a building exempt from sales and use tax;
- a \$3,000 B&O tax job credit for each manufacturing production position that takes place in a new building exempt from sales and use tax;
- a preferential B&O tax rate of 0.275 percent for businesses of manufacturing semiconductor materials;
- a sales and use tax exemption for the sale of gases and chemicals used by a manufacturer in the manufacturing of semiconductor materials; and
- a B&O tax exemption for manufacturers of semiconductor microchips.

The sales and use tax exemption for labor, services, and sales of tangible personal property related to the construction of new buildings used for manufacturing semiconductor materials has an employment requirement that manufacturer or processor for hire must maintain at least 75 percent of full employment at the new building. There were no employment requirement for other five tax preferences.

There are two tax preferences related to the semiconductor industry currently in effect:

- a preferential B&O rate of 0.275 percent for manufacturing semiconductor materials; and
- a sales and use tax exemption for purchases of gases and chemicals used in specific phases of the semiconductor production process.

These two tax preferences require beneficiaries to maintain the number of persons employed at least 90 percent of the employment average for the previous three years, or to reimburse 50 percent of the benefits. Both preferences expire on December 1, 2028. For the reduced B&O tax rates, semiconductor materials are defined in statute as silicon crystals,

silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers. For the sales and use tax exemptions currently in effect, the definition is expanded to include materials that are used in solar energy systems, including solar grade silicon, silicon solar wafers, compound semiconductor solar wafers, silicon solar cells, and thin film solar devices.

Summary of Amended Bill: The six tax preferences that expired on January 1, 2024, are reinstated, contingent on the construction of a new semiconductor manufacturing fabrication built by January 1, 2034, with new investments of at least \$500 million. The reinstated tax preferences expire January 1, 2034, and are exempt from the tax preference performance statement requirements.

The bill sets an employment requirement for four out of the six tax preferences. Any tax preference recipient must reimburse the Department of Revenue (DOR) for 50 percent of the amount of the tax preference claimed if the number of persons employed by the preference beneficiary is less than 90 percent of the beneficiary's three-year employment average for the three years immediately preceding the year in which the preference is claimed.

The bill also requires a qualifying semiconductor manufacturer to apply to DOR for an exemption certificate at least 90 days prior to commencing construction.

The expiration date is extended to January 1, 2034, for the two other preferences currently in effect for semiconductor manufacturing.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Business, Financial Services, Gaming & Trade): No public hearing was held.

Persons Testifying (Business, Financial Services, Gaming & Trade): N/A

Persons Signed In To Testify But Not Testifying (Business, Financial Services, Gaming & Trade): N/A

Staff Summary of Public Testimony (Ways & Means): PRO: The economy is changing and the state tax structure needs to change. The bill helps keep Washington State on the map as a supply chain partner and innovator in the semiconductor industry. It supports over

\$898 million in state export and over 32,000 jobs in Clark County alone. The bill has a modest fiscal note but underlines the intent to keeping the existing semiconductor industry partners engaged, supporting their expansion and modernization considerations, and supporting the legacy relationship built in recent decades. Other states are competitive and seeking to attract broader investment by the semiconductor industry. The bill represents a minimum of efforts to sustain the important local industry base and promote future innovation opportunities here in Washington.

Persons Testifying (Ways & Means): PRO: Emily Shay, Association of Washington business; Jennifer Baker, Columbia River Economic Development Council.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.