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**SUBSTITUTE HOUSE BILL 1758**

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**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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