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**HOUSE BILL 2121**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Chapman, Maycumber, Tharinger, Kretz, and Blake

1 AN ACT Relating to providing ongoing funding under the current  
2 funding model to the forest and fish support account by extending the  
3 current forest products business and occupation tax rate with the  
4 associated surcharge in RCW 82.04.261; amending RCW 82.04.260 and  
5 82.04.261; creating new sections; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the  
8 Washington state forest practices habitat conservation plan was  
9 approved in 2006 by the United States fish and wildlife service and  
10 the national oceanic and atmospheric administration's marine  
11 fisheries service. The legislature further finds that the  
12 conservation plan protects habitat of aquatic species, supports  
13 economically viable and healthy forests, and creates regulatory  
14 stability for landowners. The legislature further finds that funding  
15 for the adaptive management program and participation grants are  
16 required to implement the forest and fish agreement and meet the  
17 goals of the conservation plan. The legislature further finds that  
18 the surcharge on the timber products business and occupation tax rate  
19 was agreed to by the forest products industry, tribal leaders, and  
20 stakeholders as a way to provide funding and safeguard the future of  
21 the conservation plan. The legislature further finds that the

1 forestry industry assumed significant financial obligation with the  
2 enactment of this conservation plan, in exchange for operational  
3 certainty under the endangered species act. Therefore, the  
4 legislature concludes that the timber products business and  
5 occupation tax rate and the surcharge should continue until the  
6 expiration date of the forest and fish agreement, in 2056.

7 (2) The legislature finds that Washington has one of the  
8 strongest economies in the country. However, the local economies in  
9 some rural counties continue to struggle. The legislature further  
10 finds that the economic prosperity of our state must be shared by all  
11 of our communities. The legislature further finds that forest product  
12 sectors provide family-wage jobs in economically struggling areas of  
13 the state. The legislature further finds that in 2017 the Washington  
14 forest products industry, directly and indirectly, employed one  
15 hundred one thousand workers, earning 5.5 billion dollars in wages.  
16 Therefore, the legislature concludes that the forest products  
17 industries support our local rural economies and contribute towards  
18 the effort to lower unemployment rates across the state, especially  
19 in rural areas.

20 **Sec. 2.** RCW 82.04.260 and 2018 c 164 s 3 are each amended to  
21 read as follows:

22 (1) Upon every person engaging within this state in the business  
23 of manufacturing:

24 (a) Wheat into flour, barley into pearl barley, soybeans into  
25 soybean oil, canola into canola oil, canola meal, or canola by-  
26 products, or sunflower seeds into sunflower oil; as to such persons  
27 the amount of tax with respect to such business is equal to the value  
28 of the flour, pearl barley, oil, canola meal, or canola by-product  
29 manufactured, multiplied by the rate of 0.138 percent;

30 (b) Beginning July 1, 2025, seafood products that remain in a  
31 raw, raw frozen, or raw salted state at the completion of the  
32 manufacturing by that person; or selling manufactured seafood  
33 products that remain in a raw, raw frozen, or raw salted state at the  
34 completion of the manufacturing, to purchasers who transport in the  
35 ordinary course of business the goods out of this state; as to such  
36 persons the amount of tax with respect to such business is equal to  
37 the value of the products manufactured or the gross proceeds derived  
38 from such sales, multiplied by the rate of 0.138 percent. Sellers  
39 must keep and preserve records for the period required by RCW

1 82.32.070 establishing that the goods were transported by the  
2 purchaser in the ordinary course of business out of this state;

3 (c) (i) Except as provided otherwise in (c) (iii) of this  
4 subsection, from July 1, 2025, until January 1, 2036, dairy products;  
5 or selling dairy products that the person has manufactured to  
6 purchasers who either transport in the ordinary course of business  
7 the goods out of state or purchasers who use such dairy products as  
8 an ingredient or component in the manufacturing of a dairy product;  
9 as to such persons the tax imposed is equal to the value of the  
10 products manufactured or the gross proceeds derived from such sales  
11 multiplied by the rate of 0.138 percent. Sellers must keep and  
12 preserve records for the period required by RCW 82.32.070  
13 establishing that the goods were transported by the purchaser in the  
14 ordinary course of business out of this state or sold to a  
15 manufacturer for use as an ingredient or component in the  
16 manufacturing of a dairy product.

17 (ii) For the purposes of this subsection (1) (c), "dairy products"  
18 means:

19 (A) Products, not including any marijuana-infused product, that  
20 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,  
21 parts 131, 133, and 135, including by-products from the manufacturing  
22 of the dairy products, such as whey and casein; and

23 (B) Products comprised of not less than seventy percent dairy  
24 products that qualify under (c) (ii) (A) of this subsection, measured  
25 by weight or volume.

26 (iii) The preferential tax rate provided to taxpayers under this  
27 subsection (1) (c) does not apply to sales of dairy products on or  
28 after July 1, 2023, where a dairy product is used by the purchaser as  
29 an ingredient or component in the manufacturing in Washington of a  
30 dairy product;

31 (d) (i) Beginning July 1, 2025, fruits or vegetables by canning,  
32 preserving, freezing, processing, or dehydrating fresh fruits or  
33 vegetables, or selling at wholesale fruits or vegetables manufactured  
34 by the seller by canning, preserving, freezing, processing, or  
35 dehydrating fresh fruits or vegetables and sold to purchasers who  
36 transport in the ordinary course of business the goods out of this  
37 state; as to such persons the amount of tax with respect to such  
38 business is equal to the value of the products manufactured or the  
39 gross proceeds derived from such sales multiplied by the rate of  
40 0.138 percent. Sellers must keep and preserve records for the period

1 required by RCW 82.32.070 establishing that the goods were  
2 transported by the purchaser in the ordinary course of business out  
3 of this state.

4 (ii) For purposes of this subsection (1)(d), "fruits" and  
5 "vegetables" do not include marijuana, useable marijuana, or  
6 marijuana-infused products; and

7 (e) Wood biomass fuel; as to such persons the amount of tax with  
8 respect to the business is equal to the value of wood biomass fuel  
9 manufactured, multiplied by the rate of 0.138 percent. For the  
10 purposes of this section, "wood biomass fuel" means a liquid or  
11 gaseous fuel that is produced from lignocellulosic feedstocks,  
12 including wood, forest, (~~(+or+)~~) or field residue(~~(+)~~) and dedicated  
13 energy crops, and that does not include wood treated with chemical  
14 preservations such as creosote, pentachlorophenol, or copper-chrome-  
15 arsenic.

16 (2) Upon every person engaging within this state in the business  
17 of splitting or processing dried peas; as to such persons the amount  
18 of tax with respect to such business is equal to the value of the  
19 peas split or processed, multiplied by the rate of 0.138 percent.

20 (3) Upon every nonprofit corporation and nonprofit association  
21 engaging within this state in research and development, as to such  
22 corporations and associations, the amount of tax with respect to such  
23 activities is equal to the gross income derived from such activities  
24 multiplied by the rate of 0.484 percent.

25 (4) Upon every person engaging within this state in the business  
26 of slaughtering, breaking and/or processing perishable meat products  
27 and/or selling the same at wholesale only and not at retail; as to  
28 such persons the tax imposed is equal to the gross proceeds derived  
29 from such sales multiplied by the rate of 0.138 percent.

30 (5) Upon every person engaging within this state in the business  
31 of acting as a travel agent or tour operator; as to such persons the  
32 amount of the tax with respect to such activities is equal to the  
33 gross income derived from such activities multiplied by the rate of  
34 0.275 percent.

35 (6) Upon every person engaging within this state in business as  
36 an international steamship agent, international customs house broker,  
37 international freight forwarder, vessel and/or cargo charter broker  
38 in foreign commerce, and/or international air cargo agent; as to such  
39 persons the amount of the tax with respect to only international

1 activities is equal to the gross income derived from such activities  
2 multiplied by the rate of 0.275 percent.

3 (7) Upon every person engaging within this state in the business  
4 of stevedoring and associated activities pertinent to the movement of  
5 goods and commodities in waterborne interstate or foreign commerce;  
6 as to such persons the amount of tax with respect to such business is  
7 equal to the gross proceeds derived from such activities multiplied  
8 by the rate of 0.275 percent. Persons subject to taxation under this  
9 subsection are exempt from payment of taxes imposed by chapter 82.16  
10 RCW for that portion of their business subject to taxation under this  
11 subsection. Stevedoring and associated activities pertinent to the  
12 conduct of goods and commodities in waterborne interstate or foreign  
13 commerce are defined as all activities of a labor, service or  
14 transportation nature whereby cargo may be loaded or unloaded to or  
15 from vessels or barges, passing over, onto or under a wharf, pier, or  
16 similar structure; cargo may be moved to a warehouse or similar  
17 holding or storage yard or area to await further movement in import  
18 or export or may move to a consolidation freight station and be  
19 stuffed, unstuffed, containerized, separated or otherwise segregated  
20 or aggregated for delivery or loaded on any mode of transportation  
21 for delivery to its consignee. Specific activities included in this  
22 definition are: Wharfage, handling, loading, unloading, moving of  
23 cargo to a convenient place of delivery to the consignee or a  
24 convenient place for further movement to export mode; documentation  
25 services in connection with the receipt, delivery, checking, care,  
26 custody and control of cargo required in the transfer of cargo;  
27 imported automobile handling prior to delivery to consignee; terminal  
28 stevedoring and incidental vessel services, including but not limited  
29 to plugging and unplugging refrigerator service to containers,  
30 trailers, and other refrigerated cargo receptacles, and securing ship  
31 hatch covers.

32 (8) (a) Upon every person engaging within this state in the  
33 business of disposing of low-level waste, as defined in RCW  
34 43.145.010; as to such persons the amount of the tax with respect to  
35 such business is equal to the gross income of the business, excluding  
36 any fees imposed under chapter 43.200 RCW, multiplied by the rate of  
37 3.3 percent.

38 (b) If the gross income of the taxpayer is attributable to  
39 activities both within and without this state, the gross income

1 attributable to this state must be determined in accordance with the  
2 methods of apportionment required under RCW 82.04.460.

3 (9) Upon every person engaging within this state as an insurance  
4 producer or title insurance agent licensed under chapter 48.17 RCW or  
5 a surplus line broker licensed under chapter 48.15 RCW; as to such  
6 persons, the amount of the tax with respect to such licensed  
7 activities is equal to the gross income of such business multiplied  
8 by the rate of 0.484 percent.

9 (10) Upon every person engaging within this state in business as  
10 a hospital, as defined in chapter 70.41 RCW, that is operated as a  
11 nonprofit corporation or by the state or any of its political  
12 subdivisions, as to such persons, the amount of tax with respect to  
13 such activities is equal to the gross income of the business  
14 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
15 percent thereafter.

16 (11)(a) Beginning October 1, 2005, upon every person engaging  
17 within this state in the business of manufacturing commercial  
18 airplanes, or components of such airplanes, or making sales, at  
19 retail or wholesale, of commercial airplanes or components of such  
20 airplanes, manufactured by the seller, as to such persons the amount  
21 of tax with respect to such business is, in the case of  
22 manufacturers, equal to the value of the product manufactured and the  
23 gross proceeds of sales of the product manufactured, or in the case  
24 of processors for hire, equal to the gross income of the business,  
25 multiplied by the rate of:

26 (i) 0.4235 percent from October 1, 2005, through June 30, 2007;  
27 and

28 (ii) 0.2904 percent beginning July 1, 2007.

29 (b) Beginning July 1, 2008, upon every person who is not eligible  
30 to report under the provisions of (a) of this subsection (11) and is  
31 engaging within this state in the business of manufacturing tooling  
32 specifically designed for use in manufacturing commercial airplanes  
33 or components of such airplanes, or making sales, at retail or  
34 wholesale, of such tooling manufactured by the seller, as to such  
35 persons the amount of tax with respect to such business is, in the  
36 case of manufacturers, equal to the value of the product manufactured  
37 and the gross proceeds of sales of the product manufactured, or in  
38 the case of processors for hire, be equal to the gross income of the  
39 business, multiplied by the rate of 0.2904 percent.

1 (c) For the purposes of this subsection (11), "commercial  
2 airplane" and "component" have the same meanings as provided in RCW  
3 82.32.550.

4 (d) In addition to all other requirements under this title, a  
5 person reporting under the tax rate provided in this subsection (11)  
6 must file a complete annual tax performance report with the  
7 department under RCW 82.32.534.

8 (e)(i) Except as provided in (e)(ii) of this subsection (11),  
9 this subsection (11) does not apply on and after July 1, 2040.

10 (ii) With respect to the manufacturing of commercial airplanes or  
11 making sales, at retail or wholesale, of commercial airplanes, this  
12 subsection (11) does not apply on and after July 1st of the year in  
13 which the department makes a determination that any final assembly or  
14 wing assembly of any version or variant of a commercial airplane that  
15 is the basis of a siting of a significant commercial airplane  
16 manufacturing program in the state under RCW 82.32.850 has been sited  
17 outside the state of Washington. This subsection (11)(e)(ii) only  
18 applies to the manufacturing or sale of commercial airplanes that are  
19 the basis of a siting of a significant commercial airplane  
20 manufacturing program in the state under RCW 82.32.850.

21 (12)(a) Until July 1, (~~2024~~) 2036, upon every person engaging  
22 within this state in the business of extracting timber or extracting  
23 for hire timber; as to such persons the amount of tax with respect to  
24 the business is, in the case of extractors, equal to the value of  
25 products, including by-products, extracted, or in the case of  
26 extractors for hire, equal to the gross income of the business,  
27 multiplied by the rate of 0.4235 percent from July 1, 2006, through  
28 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,  
29 (~~2024~~) 2036.

30 (b) Until July 1, (~~2024~~) 2036, upon every person engaging  
31 within this state in the business of manufacturing or processing for  
32 hire: (i) Timber into timber products or wood products; or (ii)  
33 timber products into other timber products or wood products; as to  
34 such persons the amount of the tax with respect to the business is,  
35 in the case of manufacturers, equal to the value of products,  
36 including by-products, manufactured, or in the case of processors for  
37 hire, equal to the gross income of the business, multiplied by the  
38 rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and  
39 0.2904 percent from July 1, 2007, through June 30, (~~2024~~) 2036.

1 (c) Until July 1, (~~2024~~) 2036, upon every person engaging  
2 within this state in the business of selling at wholesale: (i) Timber  
3 extracted by that person; (ii) timber products manufactured by that  
4 person from timber or other timber products; or (iii) wood products  
5 manufactured by that person from timber or timber products; as to  
6 such persons the amount of the tax with respect to the business is  
7 equal to the gross proceeds of sales of the timber, timber products,  
8 or wood products multiplied by the rate of 0.4235 percent from July  
9 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007,  
10 through June 30, (~~2024~~) 2036.

11 (d) Until July 1, (~~2024~~) 2036, upon every person engaging  
12 within this state in the business of selling standing timber; as to  
13 such persons the amount of the tax with respect to the business is  
14 equal to the gross income of the business multiplied by the rate of  
15 0.2904 percent. For purposes of this subsection (12)(d), "selling  
16 standing timber" means the sale of timber apart from the land, where  
17 the buyer is required to sever the timber within thirty months from  
18 the date of the original contract, regardless of the method of  
19 payment for the timber and whether title to the timber transfers  
20 before, upon, or after severance.

21 (e) For purposes of this subsection, the following definitions  
22 apply:

23 (i) "Biocomposite surface products" means surface material  
24 products containing, by weight or volume, more than fifty percent  
25 recycled paper and that also use nonpetroleum-based phenolic resin as  
26 a bonding agent.

27 (ii) "Paper and paper products" means products made of interwoven  
28 cellulosic fibers held together largely by hydrogen bonding. "Paper  
29 and paper products" includes newsprint; office, printing, fine, and  
30 pressure-sensitive papers; paper napkins, towels, and toilet tissue;  
31 kraft bag, construction, and other kraft industrial papers;  
32 paperboard, liquid packaging containers, containerboard, corrugated,  
33 and solid-fiber containers including linerboard and corrugated  
34 medium; and related types of cellulosic products containing  
35 primarily, by weight or volume, cellulosic materials. "Paper and  
36 paper products" does not include books, newspapers, magazines,  
37 periodicals, and other printed publications, advertising materials,  
38 calendars, and similar types of printed materials.

39 (iii) "Recycled paper" means paper and paper products having  
40 fifty percent or more of their fiber content that comes from



1 postconsumer waste. For purposes of this subsection (12)(e)(iii),  
2 "postconsumer waste" means a finished material that would normally be  
3 disposed of as solid waste, having completed its life cycle as a  
4 consumer item.

5 (iv) "Timber" means forest trees, standing or down, on privately  
6 or publicly owned land. "Timber" does not include Christmas trees  
7 that are cultivated by agricultural methods or short-rotation  
8 hardwoods as defined in RCW 84.33.035.

9 (v) "Timber products" means:

10 (A) Logs, wood chips, sawdust, wood waste, and similar products  
11 obtained wholly from the processing of timber, short-rotation  
12 hardwoods as defined in RCW 84.33.035, or both;

13 (B) Pulp, including market pulp and pulp derived from recovered  
14 paper or paper products; and

15 (C) Recycled paper, but only when used in the manufacture of  
16 biocomposite surface products.

17 (vi) "Wood products" means paper and paper products; dimensional  
18 lumber; engineered wood products such as particleboard, oriented  
19 strand board, medium density fiberboard, and plywood; wood doors;  
20 wood windows; and biocomposite surface products.

21 (f) Except for small harvesters as defined in RCW 84.33.035, a  
22 person reporting under the tax rate provided in this subsection (12)  
23 must file a complete annual tax performance report with the  
24 department under RCW 82.32.534.

25 (13) Upon every person engaging within this state in inspecting,  
26 testing, labeling, and storing canned salmon owned by another person,  
27 as to such persons, the amount of tax with respect to such activities  
28 is equal to the gross income derived from such activities multiplied  
29 by the rate of 0.484 percent.

30 (14)(a) Upon every person engaging within this state in the  
31 business of printing a newspaper, publishing a newspaper, or both,  
32 the amount of tax on such business is equal to the gross income of  
33 the business multiplied by the rate of 0.35 percent until July 1,  
34 2024, and 0.484 percent thereafter.

35 (b) A person reporting under the tax rate provided in this  
36 subsection (14) must file a complete annual tax performance report  
37 with the department under RCW 82.32.534.

38 **Sec. 3.** RCW 82.04.261 and 2017 c 323 s 501 are each amended to  
39 read as follows:

1 (1) In addition to the taxes imposed under RCW 82.04.260(12), a  
2 surcharge is imposed on those persons who are subject to any of the  
3 taxes imposed under RCW 82.04.260(12). Except as otherwise provided  
4 in this section, the surcharge is equal to 0.052 percent. The  
5 surcharge is added to the rates provided in RCW 82.04.260(12) (a),  
6 (b), (c), and (d). (~~The surcharge and this section expire July 1,~~  
7 ~~2024.~~)

8 (2) All receipts from the surcharge imposed under this section  
9 must be deposited into the forest and fish support account created in  
10 RCW 76.09.405.

11 (3)(a) The surcharge imposed under this section is suspended if:

12 (i) Receipts from the surcharge total at least eight million  
13 dollars during any fiscal biennium; or

14 (ii) The office of financial management certifies to the  
15 department that the federal government has appropriated at least two  
16 million dollars for participation in forest and fish report-related  
17 activities by federally recognized Indian tribes located within the  
18 geographical boundaries of the state of Washington for any federal  
19 fiscal year.

20 (b)(i) The suspension of the surcharge under (a)(i) of this  
21 subsection (3) takes effect on the first day of the calendar month  
22 that is at least thirty days after the end of the month during which  
23 the department determines that receipts from the surcharge total at  
24 least eight million dollars during the fiscal biennium. The surcharge  
25 is imposed again at the beginning of the following fiscal biennium.

26 (ii) The suspension of the surcharge under (a)(ii) of this  
27 subsection (3) takes effect on the later of the first day of October  
28 of any federal fiscal year for which the federal government  
29 appropriates at least two million dollars for participation in forest  
30 and fish report-related activities by federally recognized Indian  
31 tribes located within the geographical boundaries of the state of  
32 Washington, or the first day of a calendar month that is at least  
33 thirty days following the date that the office of financial  
34 management makes a certification to the department under subsection  
35 (5) of this section. The surcharge is imposed again on the first day  
36 of the following July.

37 (4)(a) If, by October 1st of any federal fiscal year, the office  
38 of financial management certifies to the department that the federal  
39 government has appropriated funds for participation in forest and  
40 fish report-related activities by federally recognized Indian tribes

1 located within the geographical boundaries of the state of Washington  
2 but the amount of the appropriation is less than two million dollars,  
3 the department must adjust the surcharge in accordance with this  
4 subsection.

5 (b) The department must adjust the surcharge by an amount that  
6 the department estimates will cause the amount of funds deposited  
7 into the forest and fish support account for the state fiscal year  
8 that begins July 1st and that includes the beginning of the federal  
9 fiscal year for which the federal appropriation is made, to be  
10 reduced by twice the amount of the federal appropriation for  
11 participation in forest and fish report-related activities by  
12 federally recognized Indian tribes located within the geographical  
13 boundaries of the state of Washington.

14 (c) Any adjustment in the surcharge takes effect at the beginning  
15 of a calendar month that is at least thirty days after the date that  
16 the office of financial management makes the certification under  
17 subsection (5) of this section.

18 (d) The surcharge is imposed again at the rate provided in  
19 subsection (1) of this section on the first day of the following  
20 state fiscal year unless the surcharge is suspended under subsection  
21 (3) of this section or adjusted for that fiscal year under this  
22 subsection.

23 (e) Adjustments of the amount of the surcharge by the department  
24 are final and may not be used to challenge the validity of the  
25 surcharge imposed under this section.

26 (f) The department must provide timely notice to affected  
27 taxpayers of the suspension of the surcharge or an adjustment of the  
28 surcharge.

29 (5) The office of financial management must make the  
30 certification to the department as to the status of federal  
31 appropriations for tribal participation in forest and fish report-  
32 related activities.

33 (6) This section expires July 1, 2036.

34 NEW SECTION. **Sec. 4.** The provisions of RCW 82.32.808 do not  
35 apply to this act.

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