
HOUSE BILL 1411

State of Washington

56th Legislature

1999 Regular Session

By Representative Thomas

Read first time . Referred to Committee on .

1 AN ACT Relating to telecommunication and energy taxes; amending RCW
2 82.04.065, 82.04.060, 82.04.120, 82.04.425, 82.04.460, 82.08.020,
3 82.08.02565, 82.08.0289, 82.12.010, 82.12.020, 82.12.023, 82.12.035,
4 82.14.020, 82.14.030, 82.14.045, 82.14.048, 82.14.0485, 82.14.0494,
5 82.14.340, 82.14.350, 82.14.370, 81.104.170, 82.16.010, 82.16.020,
6 82.16.050, 35.21.710, 35.21.711, 35.21.714, 35.21.715, 35.21.860, and
7 35A.82.050; reenacting and amending RCW 82.04.050 and 82.04.190; adding
8 new sections to chapter 82.04 RCW; adding a new section to chapter
9 82.08 RCW; adding a new section to chapter 82.14 RCW; creating a new
10 section; repealing RCW 35.21.712, 35.21.865, 35.21.870, 35.21.871,
11 35A.82.055, 35A.82.060, 35A.82.065, 35A.82.070, 82.08.026, 82.12.022,
12 82.14.230, 82.16.053, and 82.16.090; providing an effective date; and
13 providing an expiration date.

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

15 **PART I**
16 **GENERAL DEFINITIONS AND BUSINESS AND OCCUPATION TAX**

17 **Sec. 101.** RCW 82.04.065 and 1997 c 304 s 5 are each amended to
18 read as follows:

1 (1) (~~"Competitive telephone service" means the providing by any~~
2 ~~person of telecommunications equipment or apparatus, or service related~~
3 ~~to that equipment or apparatus such as repair or maintenance service,~~
4 ~~if the equipment or apparatus is of a type which can be provided by~~
5 ~~persons that are not subject to regulation as telephone companies under~~
6 ~~Title 80 RCW and for which a separate charge is made.))~~
7 "Telecommunication" means the transmission, between or among points
8 specified by the user, of information of the user's choosing, without
9 change in the form or content of the information as sent and received.

10 (2) "~~((Network telephone))~~ Telecommunication service" means the
11 providing by any person of access to a local ~~((telephone))~~
12 telecommunication network, local ~~((telephone))~~ telecommunication
13 network switching service, toll service, or coin ~~((telephone))~~
14 telecommunication services, or the providing of telephonic, video,
15 data, or similar communication or transmission for hire, via a ~~((local~~
16 ~~telephone))~~ telecommunication network, toll line or channel, cable,
17 microwave, satellite, or similar communication or transmission system.
18 "~~((Network telephone))~~ Telecommunication service" includes interstate
19 and international service, including toll service, originating from or
20 received on telecommunications equipment or apparatus in this state if
21 the charge for the service is billed to a person in this state.
22 "~~((Network telephone))~~ Telecommunication service" includes the
23 provision of transmission to and from the site of an internet provider
24 via a local telephone network, toll line or channel, cable, microwave,
25 or similar communication or transmission system. "~~((Network~~
26 ~~telephone))~~ Telecommunication service" does not include the providing
27 of ~~((competitive telephone service, the providing of))~~ cable television
28 service, the providing of broadcast services by radio or television
29 stations, the providing of one-way radio paging or notification
30 services, nor the provision of internet service as defined in RCW
31 82.04.297, including the reception of dial-in connection, provided at
32 the site of the internet service provider.

33 (3) (~~"Telephone service" means competitive telephone service or~~
34 ~~network telephone service, or both, as defined in subsections (1) and~~
35 ~~(2) of this section.~~

36 (4) ~~"Telephone business" means the business of providing network~~
37 ~~telephone service, as defined in subsection (2) of this section. It~~
38 ~~includes cooperative or farmer line telephone companies or associations~~

1 ~~operating an exchange.)~~) "Cable service" is defined as provided in the
2 federal telecommunications act of 1996.

3 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.04
4 RCW, to be codified before RCW 82.04.220, to read as follows:

5 "Electrical service" means the provision of electricity, including
6 but not limited to generation, production, transmission, aggregation,
7 distribution, and delivery.

8 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.04
9 RCW, to be codified before RCW 82.04.220, to read as follows:

10 "Gas service" means the provision of natural or manufactured gas
11 through a pipeline, including but not limited to generation,
12 production, transmission, aggregation, distribution, and delivery.

13 **Sec. 104.** RCW 82.04.050 and 1998 c 332 s 2, 1998 c 315 s 1, 1998
14 c 308 s 1, and 1998 c 275 s 1 are each reenacted and amended to read as
15 follows:

16 (1) "Sale at retail" or "retail sale" means every sale of tangible
17 personal property (including articles produced, fabricated, or
18 imprinted) to all persons irrespective of the nature of their business
19 and including, among others, without limiting the scope hereof, persons
20 who install, repair, clean, alter, improve, construct, or decorate real
21 or personal property of or for consumers other than a sale to a person
22 who presents a resale certificate under RCW 82.04.470 and who:

23 (a) Purchases for the purpose of resale as tangible personal
24 property in the regular course of business without intervening use by
25 such person; or

26 (b) Installs, repairs, cleans, alters, imprints, improves,
27 constructs, or decorates real or personal property of or for consumers,
28 if such tangible personal property becomes an ingredient or component
29 of such real or personal property without intervening use by such
30 person; or

31 (c) Purchases for the purpose of consuming the property purchased
32 in producing for sale a new article of tangible personal property or
33 substance, of which such property becomes an ingredient or component or
34 is a chemical used in processing, when the primary purpose of such
35 chemical is to create a chemical reaction directly through contact with
36 an ingredient of a new article being produced for sale; or

1 (d) Purchases for the purpose of consuming the property purchased
2 in producing ferrosilicon which is subsequently used in producing
3 magnesium for sale, if the primary purpose of such property is to
4 create a chemical reaction directly through contact with an ingredient
5 of ferrosilicon(~~(; or~~

6 ~~(e) Purchases for the purpose of providing the property to~~
7 ~~consumers as part of competitive telephone service, as defined in RCW~~
8 ~~82.04.065)).~~

9 The term shall include every sale of tangible personal property
10 which is used or consumed or to be used or consumed in the performance
11 of any activity classified as a "sale at retail" or "retail sale" even
12 though such property is resold or utilized as provided in (a), (b),
13 (c), or (d)(~~(; or (e))~~) of this subsection following such use. The
14 term also means every sale of tangible personal property to persons
15 engaged in any business which is taxable under RCW 82.04.280 (2) and
16 (7) and 82.04.290.

17 (2) The term "sale at retail" or "retail sale" shall include the
18 sale of or charge made for tangible personal property consumed and/or
19 for labor and services rendered in respect to the following:

20 (a) The installing, repairing, cleaning, altering, imprinting, or
21 improving of tangible personal property of or for consumers, including
22 charges made for the mere use of facilities in respect thereto, but
23 excluding charges made for the use of coin-operated laundry facilities
24 when such facilities are situated in an apartment house, rooming house,
25 or mobile home park for the exclusive use of the tenants thereof, and
26 also excluding sales of laundry service to nonprofit health care
27 facilities, and excluding services rendered in respect to live animals,
28 birds and insects;

29 (b) The constructing, repairing, decorating, or improving of new or
30 existing buildings or other structures under, upon, or above real
31 property of or for consumers, including the installing or attaching of
32 any article of tangible personal property therein or thereto, whether
33 or not such personal property becomes a part of the realty by virtue of
34 installation, and shall also include the sale of services or charges
35 made for the clearing of land and the moving of earth excepting the
36 mere leveling of land used in commercial farming or agriculture;

37 (c) The charge for labor and services rendered in respect to
38 constructing, repairing, or improving any structure upon, above, or
39 under any real property owned by an owner who conveys the property by

1 title, possession, or any other means to the person performing such
2 construction, repair, or improvement for the purpose of performing such
3 construction, repair, or improvement and the property is then
4 reconveyed by title, possession, or any other means to the original
5 owner;

6 (d) The sale of or charge made for labor and services rendered in
7 respect to the cleaning, fumigating, razing or moving of existing
8 buildings or structures, but shall not include the charge made for
9 janitorial services; and for purposes of this section the term
10 "janitorial services" shall mean those cleaning and caretaking services
11 ordinarily performed by commercial janitor service businesses
12 including, but not limited to, wall and window washing, floor cleaning
13 and waxing, and the cleaning in place of rugs, drapes and upholstery.
14 The term "janitorial services" does not include painting, papering,
15 repairing, furnace or septic tank cleaning, snow removal or
16 sandblasting;

17 (e) The sale of or charge made for labor and services rendered in
18 respect to automobile towing and similar automotive transportation
19 services, but not in respect to those required to report and pay taxes
20 under chapter 82.16 RCW;

21 (f) The sale of and charge made for the furnishing of lodging and
22 all other services by a hotel, rooming house, tourist court, motel,
23 trailer camp, and the granting of any similar license to use real
24 property, as distinguished from the renting or leasing of real
25 property, and it shall be presumed that the occupancy of real property
26 for a continuous period of one month or more constitutes a rental or
27 lease of real property and not a mere license to use or enjoy the same;

28 (g) The sale of or charge made for tangible personal property,
29 labor and services to persons taxable under (a), (b), (c), (d), (e),
30 and (f) of this subsection when such sales or charges are for property,
31 labor and services which are used or consumed in whole or in part by
32 such persons in the performance of any activity defined as a "sale at
33 retail" or "retail sale" even though such property, labor and services
34 may be resold after such use or consumption. Nothing contained in this
35 subsection shall be construed to modify subsection (1) of this section
36 and nothing contained in subsection (1) of this section shall be
37 construed to modify this subsection.

38 (3) The term "sale at retail" or "retail sale" shall include the
39 sale of or charge made for personal, business, or professional services

1 including amounts designated as interest, rents, fees, admission, and
2 other service emoluments however designated, received by persons
3 engaging in the following business activities:

4 (a) Amusement and recreation services including but not limited to
5 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
6 for sightseeing purposes, and others, when provided to consumers;

7 (b) Abstract, title insurance, and escrow services;

8 (c) Credit bureau services;

9 (d) Automobile parking and storage garage services;

10 (e) Landscape maintenance and horticultural services but excluding
11 (i) horticultural services provided to farmers and (ii) pruning,
12 trimming, repairing, removing, and clearing of trees and brush near
13 electric transmission or distribution lines or equipment, if performed
14 by or at the direction of an electric utility;

15 (f) Service charges associated with tickets to professional
16 sporting events; and

17 (g) The following personal services: Physical fitness services,
18 tanning salon services, tattoo parlor services, steam bath services,
19 turkish bath services, escort services, and dating services.

20 (4) The term shall also include the renting or leasing of tangible
21 personal property to consumers and the rental of equipment with an
22 operator.

23 (5) The term shall also include the providing of ((telephone))
24 telecommunication service, ((as defined in RCW 82.04.065,)) electrical
25 service, and gas service to consumers.

26 (6) The term shall also include the sale of canned software other
27 than a sale to a person who presents a resale certificate under RCW
28 82.04.470, regardless of the method of delivery to the end user, but
29 shall not include custom software or the customization of canned
30 software.

31 (7) The term shall not include the sale of or charge made for labor
32 and services rendered in respect to the building, repairing, or
33 improving of any street, place, road, highway, easement, right of way,
34 mass public transportation terminal or parking facility, bridge,
35 tunnel, or trestle which is owned by a municipal corporation or
36 political subdivision of the state or by the United States and which is
37 used or to be used primarily for foot or vehicular traffic including
38 mass transportation vehicles of any kind.

1 (8) The term shall also not include sales of chemical sprays or
2 washes to persons for the purpose of postharvest treatment of fruit for
3 the prevention of scald, fungus, mold, or decay, nor shall it include
4 sales of feed, seed, seedlings, fertilizer, agents for enhanced
5 pollination including insects such as bees, and spray materials to:
6 (a) Persons who participate in the federal conservation reserve
7 program, the environmental quality incentives program, the wetlands
8 reserve program, and the wildlife habitat incentives program, or their
9 successors administered by the United States department of agriculture;
10 (b) farmers for the purpose of producing for sale any agricultural
11 product; and (c) farmers acting under cooperative habitat development
12 or access contracts with an organization exempt from federal income tax
13 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
14 fish and wildlife to produce or improve wildlife habitat on land that
15 the farmer owns or leases.

16 (9) The term shall not include the sale of or charge made for labor
17 and services rendered in respect to the constructing, repairing,
18 decorating, or improving of new or existing buildings or other
19 structures under, upon, or above real property of or for the United
20 States, any instrumentality thereof, or a county or city housing
21 authority created pursuant to chapter 35.82 RCW, including the
22 installing, or attaching of any article of tangible personal property
23 therein or thereto, whether or not such personal property becomes a
24 part of the realty by virtue of installation. Nor shall the term
25 include the sale of services or charges made for the clearing of land
26 and the moving of earth of or for the United States, any
27 instrumentality thereof, or a county or city housing authority. Nor
28 shall the term include the sale of services or charges made for
29 cleaning up for the United States, or its instrumentalities,
30 radioactive waste and other byproducts of weapons production and
31 nuclear research and development.

32 (10) Until July 1, 2003, the term shall not include the sale of or
33 charge made for labor and services rendered for environmental remedial
34 action as defined in RCW 82.04.2635(2).

35 **Sec. 105.** RCW 82.04.060 and 1998 c 332 s 5 are each amended to
36 read as follows:

37 "Sale at wholesale" or "wholesale sale" means: (1) Any sale of
38 tangible personal property; (2) any sale of amusement or recreation

1 services as defined in RCW 82.04.050(3)(a); (3) any sale of canned
2 software; or (4) any sale of (~~telephone service as defined in RCW~~
3 ~~82.04.065~~) telecommunication service, electrical service, or gas
4 service, which is not a sale at retail and means any charge made for
5 labor and services rendered for persons who are not consumers, in
6 respect to real or personal property, if such charge is expressly
7 defined as a retail sale by RCW 82.04.050 when rendered to or for
8 consumers: PROVIDED, That the term "real or personal property" as used
9 in this section shall not include any natural products named in RCW
10 82.04.100.

11 **Sec. 106.** RCW 82.04.120 and 1998 c 168 s 1 are each amended to
12 read as follows:

13 "To manufacture" embraces all activities of a commercial or
14 industrial nature wherein labor or skill is applied, by hand or
15 machinery, to materials so that as a result thereof a new, different or
16 useful substance or article of tangible personal property is produced
17 for sale or commercial or industrial use, and shall include: (1) The
18 production or fabrication of special made or custom made articles;
19 (~~and~~) (2) the production or fabrication of dental appliances,
20 devices, restorations, substitutes, or other dental laboratory products
21 by a dental laboratory or dental technician; and (3) the generation or
22 production of electrical energy.

23 "To manufacture" shall not include: Conditioning of seed for use
24 in planting; cubing hay or alfalfa; or activities which consist of
25 cutting, grading, or ice glazing seafood which has been cooked, frozen,
26 or canned outside this state.

27 **Sec. 107.** RCW 82.04.190 and 1998 c 332 s 6 and 1998 c 308 s 2 are
28 each reenacted and amended to read as follows:

29 "Consumer" means the following:

30 (1) Any person who purchases, acquires, owns, holds, or uses any
31 article of tangible personal property irrespective of the nature of the
32 person's business and including, among others, without limiting the
33 scope hereof, persons who install, repair, clean, alter, improve,
34 construct, or decorate real or personal property of or for consumers
35 other than for the purpose (a) of resale as tangible personal property
36 in the regular course of business or (b) of incorporating such property
37 as an ingredient or component of real or personal property when

1 installing, repairing, cleaning, altering, imprinting, improving,
2 constructing, or decorating such real or personal property of or for
3 consumers or (c) of consuming such property in producing for sale a new
4 article of tangible personal property or a new substance, of which such
5 property becomes an ingredient or component or as a chemical used in
6 processing, when the primary purpose of such chemical is to create a
7 chemical reaction directly through contact with an ingredient of a new
8 article being produced for sale or (d) purchases for the purpose of
9 consuming the property purchased in producing ferrosilicon which is
10 subsequently used in producing magnesium for sale, if the primary
11 purpose of such property is to create a chemical reaction directly
12 through contact with an ingredient of ferrosilicon;

13 (2)(a) Any person engaged in any business activity taxable under
14 RCW 82.04.290; (b) any person who purchases, acquires, or uses any
15 (~~telephone service as defined in RCW 82.04.065~~) telecommunication
16 service, electrical service, or gas service, other than for resale in
17 the regular course of business; (c) any person who purchases, acquires,
18 or uses any amusement and recreation service defined in RCW
19 82.04.050(3)(a), other than for resale in the regular course of
20 business; and (d) any person who is an end user of software;

21 (3) Any person engaged in the business of contracting for the
22 building, repairing or improving of any street, place, road, highway,
23 easement, right of way, mass public transportation terminal or parking
24 facility, bridge, tunnel, or trestle which is owned by a municipal
25 corporation or political subdivision of the state of Washington or by
26 the United States and which is used or to be used primarily for foot or
27 vehicular traffic including mass transportation vehicles of any kind as
28 defined in RCW 82.04.280, in respect to tangible personal property when
29 such person incorporates such property as an ingredient or component of
30 such publicly owned street, place, road, highway, easement, right of
31 way, mass public transportation terminal or parking facility, bridge,
32 tunnel, or trestle by installing, placing or spreading the property in
33 or upon the right of way of such street, place, road, highway,
34 easement, bridge, tunnel, or trestle or in or upon the site of such
35 mass public transportation terminal or parking facility;

36 (4) Any person who is an owner, lessee or has the right of
37 possession to or an easement in real property which is being
38 constructed, repaired, decorated, improved, or otherwise altered by a
39 person engaged in business, excluding only (a) municipal corporations

1 or political subdivisions of the state in respect to labor and services
2 rendered to their real property which is used or held for public road
3 purposes, and (b) the United States, instrumentalities thereof, and
4 county and city housing authorities created pursuant to chapter 35.82
5 RCW in respect to labor and services rendered to their real property.
6 Nothing contained in this or any other subsection of this definition
7 shall be construed to modify any other definition of "consumer";

8 (5) Any person who is an owner, lessee, or has the right of
9 possession to personal property which is being constructed, repaired,
10 improved, cleaned, imprinted, or otherwise altered by a person engaged
11 in business;

12 (6) Any person engaged in the business of constructing, repairing,
13 decorating, or improving new or existing buildings or other structures
14 under, upon, or above real property of or for the United States, any
15 instrumentality thereof, or a county or city housing authority created
16 pursuant to chapter 35.82 RCW, including the installing or attaching of
17 any article of tangible personal property therein or thereto, whether
18 or not such personal property becomes a part of the realty by virtue of
19 installation; also, any person engaged in the business of clearing land
20 and moving earth of or for the United States, any instrumentality
21 thereof, or a county or city housing authority created pursuant to
22 chapter 35.82 RCW. Any such person shall be a consumer within the
23 meaning of this subsection in respect to tangible personal property
24 incorporated into, installed in, or attached to such building or other
25 structure by such person;

26 (7) Any person who is a lessor of machinery and equipment, the
27 rental of which is exempt from the tax imposed by RCW 82.08.020 under
28 RCW 82.08.02565, with respect to the sale of or charge made for
29 tangible personal property consumed in respect to repairing the
30 machinery and equipment, if the tangible personal property has a useful
31 life of less than one year. Nothing contained in this or any other
32 subsection of this section shall be construed to modify any other
33 definition of "consumer";

34 (8) Any person engaged in the business of cleaning up for the
35 United States, or its instrumentalities, radioactive waste and other
36 byproducts of weapons production and nuclear research and development;
37 and

1 (9) Until July 1, 2003, any person engaged in the business of
2 conducting environmental remedial action as defined in RCW
3 82.04.2635(2).

4 **Sec. 108.** RCW 82.04.425 and 1980 c 37 s 78 are each amended to
5 read as follows:

6 This chapter (~~shall~~) does not apply to the following activities:

7 (1) Sales for resale by persons regularly engaged in the business
8 of making sales of the type of property so sold to other persons
9 similarly engaged in the business of selling such property where
10 (~~(+1)~~): (a) The amount paid by the buyer does not exceed the amount
11 paid by the seller to his vendor in the acquisition of the article; and
12 (~~(+2)~~) (b) the sale is made as an accommodation to the buyer to enable
13 him to fill a bona fide existing order of a customer or is made within
14 fourteen days to reimburse in kind a previous accommodation sale by the
15 buyer to the seller; (~~nor to~~)

16 (2) Sales by a wholly owned subsidiary of a person making sales at
17 retail which are exempt under RCW 82.08.0262 when the parent
18 corporation shall have paid the tax imposed under this chapter; and

19 (3) Exchanges, deliveries, or transfers of electricity or the
20 rights thereto by one party to another in which the second party
21 agrees, subject to the terms and conditions of the agreement, to
22 deliver electricity at the same or another time, including, but not
23 limited to:

24 (a) The exchange of electricity for electricity between businesses
25 providing electrical service;

26 (b) The transmission or transfer of electricity by one business
27 providing electrical service to another business providing electrical
28 service under an agreement for coordination of operations among power
29 systems of the Pacific Northwest;

30 (c) The Bonneville power administration's acquisition of electric
31 power for resale to businesses providing electrical service;

32 (d) The residential exchange of electric power entered into between
33 a business providing electrical service and the administrator of the
34 Bonneville power administration.

35 **Sec. 109.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to
36 read as follows:

1 (1) Any person rendering services taxable under RCW 82.04.290 and
2 maintaining places of business both within and without this state which
3 contribute to the rendition of such services shall, for the purpose of
4 computing tax liability under RCW 82.04.290, apportion to this state
5 that portion of his gross income which is derived from services
6 rendered within this state. Where such apportionment cannot be
7 accurately made by separate accounting methods, the taxpayer shall
8 apportion to this state that proportion of his total income which the
9 cost of doing business within the state bears to the total cost of
10 doing business both within and without the state.

11 (2) Notwithstanding the provision of subsection (1) of this
12 section, persons doing business both within and without the state who
13 receive gross income from service charges, as defined in RCW 63.14.010
14 (relating to amounts charged for granting the right or privilege to
15 make deferred or installment payments) or who receive gross income from
16 engaging in business as financial institutions within the scope of
17 chapter 82.14A RCW (relating to city taxes on financial institutions)
18 shall apportion or allocate gross income taxable under RCW 82.04.290 to
19 this state pursuant to rules promulgated by the department consistent
20 with uniform rules for apportionment or allocation developed by the
21 states.

22 (3) The department shall by rule provide a method or methods of
23 apportioning or allocating gross income derived from sales of
24 (~~telephone services~~) telecommunication service, electrical service,
25 or gas service taxed under this chapter, if the gross proceeds of sales
26 subject to tax under this chapter do not fairly represent the extent of
27 the taxpayer's income attributable to this state. The rules shall be,
28 so far as feasible, consistent with the methods of apportionment
29 contained in this section and shall require the consideration of those
30 facts, circumstances, and apportionment factors as will result in an
31 equitable and constitutionally permissible division of the services.

32 **PART II**

33 **STATE SALES AND USE TAXES**

34 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.08
35 RCW to read as follows:

1 For purposes of this chapter, "telecommunication service,"
2 "electrical service," and "gas service," are defined as provided in
3 chapter 82.04 RCW.

4 **Sec. 202.** RCW 82.08.020 and 1998 c 321 s 36 are each amended to
5 read as follows:

6 (1) There is levied and there shall be collected a tax on each
7 retail sale in this state. The tax is equal to three percent of the
8 selling price for sales of telecommunication service, electric service,
9 and gas service. The tax is equal to six and five-tenths percent of
10 the selling price for other sales.

11 (2) There is levied and there shall be collected an additional tax
12 on each retail car rental, regardless of whether the vehicle is
13 licensed in this state, equal to five and nine-tenths percent of the
14 selling price. The revenue collected under this subsection shall be
15 deposited and distributed in the same manner as motor vehicle excise
16 tax revenue collected under RCW 82.44.020(1).

17 (3) The taxes imposed under this chapter shall apply to successive
18 retail sales of the same property.

19 (4) The rates provided in this section apply to taxes imposed under
20 chapter 82.12 RCW as provided in RCW 82.12.020.

21 **Sec. 203.** RCW 82.08.02565 and 1998 c 330 s 1 are each amended to
22 read as follows:

23 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
24 manufacturer or processor for hire of machinery and equipment used
25 directly in a manufacturing operation or research and development
26 operation, or to sales of or charges made for labor and services
27 rendered in respect to installing, repairing, cleaning, altering, or
28 improving the machinery and equipment, but only when the purchaser
29 provides the seller with an exemption certificate in a form and manner
30 prescribed by the department by rule. The seller shall retain a copy
31 of the certificate for the seller's files.

32 (2) For purposes of this section and RCW 82.12.02565:

33 (a) "Machinery and equipment" means industrial fixtures, devices,
34 and support facilities, and tangible personal property that becomes an
35 ingredient or component thereof, including repair parts and replacement
36 parts. "Machinery and equipment" includes pollution control equipment
37 installed and used in a manufacturing operation or research and

1 development operation to prevent air pollution, water pollution, or
2 contamination that might otherwise result from the manufacturing
3 operation or research and development operation.

4 (b) "Machinery and equipment" does not include:

5 (i) Hand tools;

6 (ii) Property with a useful life of less than one year;

7 (iii) Buildings, other than machinery and equipment that is
8 permanently affixed to or becomes a physical part of a building; and

9 (iv) Building fixtures that are not integral to the manufacturing
10 operation or research and development operation that are permanently
11 affixed to and become a physical part of a building, such as utility
12 systems for heating, ventilation, air conditioning, communications,
13 plumbing, or electrical.

14 (c) Machinery and equipment is "used directly" in a manufacturing
15 operation or research and development operation if the machinery and
16 equipment:

17 (i) Acts upon or interacts with an item of tangible personal
18 property;

19 (ii) Conveys, transports, handles, or temporarily stores an item of
20 tangible personal property at the manufacturing site;

21 (iii) Controls, guides, measures, verifies, aligns, regulates, or
22 tests tangible personal property;

23 (iv) Provides physical support for or access to tangible personal
24 property;

25 (v) Produces power for, or lubricates machinery and equipment;

26 (vi) Produces another item of tangible personal property for use in
27 the manufacturing operation or research and development operation;

28 (vii) Places tangible personal property in the container, package,
29 or wrapping in which the tangible personal property is normally sold or
30 transported; or

31 (viii) Is integral to research and development as defined in RCW
32 82.63.010.

33 (d) "Manufacturing operation" means the manufacturing of articles,
34 substances, or commodities for sale as tangible personal property. The
35 manufacturing operation begins at the point where the raw materials
36 enter the manufacturing site and ends at the point where the finished
37 product leaves the manufacturing site. The term (~~also includes~~) does
38 not include the production of electricity, other than that portion of
39 a cogeneration project that is used to generate power for consumption

1 within the manufacturing site of which the cogeneration project is an
2 integral part. The term does not include (~~the production of~~
3 ~~electricity by a light and power business as defined in RCW 82.16.010~~
4 ~~or~~) the preparation of food products on the premises of a person
5 selling food products at retail.

6 (e) "Cogeneration" means the simultaneous generation of electrical
7 energy and low-grade heat from the same fuel.

8 (f) "Research and development operation" means engaging in research
9 and development as defined in RCW 82.63.010 by a manufacturer or
10 processor for hire.

11 **Sec. 204.** RCW 82.08.0289 and 1983 2nd ex.s. c 3 s 30 are each
12 amended to read as follows:

13 (~~(1)~~) The tax levied by RCW 82.08.020 shall not apply to sales
14 of(~~+~~

15 ~~(a) Network telephone service, other than toll service, to~~
16 ~~residential customers.~~

17 ~~(b) Network telephone)~~ telecommunication service which is paid for
18 by inserting coins in coin-operated (~~telephones~~) telecommunication
19 equipment.

20 (~~(2) As used in this section:~~

21 ~~(a) "Network telephone service" has the meaning given in RCW~~
22 ~~82.04.065.~~

23 ~~(b) "Residential customer" means an individual subscribing to a~~
24 ~~residential class of telephone service.~~

25 ~~(c) "Toll service" does not include customer access line charges~~
26 ~~for access to a toll calling network.)~~)

27 **Sec. 205.** RCW 82.12.010 and 1994 c 93 s 1 are each amended to read
28 as follows:

29 For the purposes of this chapter:

30 (1)(a) "Value of the article used" shall mean the consideration,
31 whether money, credit, rights, or other property except trade-in
32 property of like kind, expressed in terms of money, paid or given or
33 contracted to be paid or given by the purchaser to the seller for the
34 article of tangible personal property or service, the use of which is
35 taxable under this chapter. The term includes, in addition to the
36 consideration paid or given or contracted to be paid or given, the
37 amount of any tariff or duty paid with respect to the importation of

1 the article used. In case the article used is acquired by lease or by
2 gift or is extracted, produced, or manufactured by the person using the
3 same or is sold under conditions wherein the purchase price does not
4 represent the true value thereof, the value of the article used shall
5 be determined as nearly as possible according to the retail selling
6 price at place of use of similar products of like quality and character
7 under such rules as the department of revenue may prescribe.

8 (b) In case the articles used are acquired by bailment, the value
9 of the use of the articles so used shall be in an amount representing
10 a reasonable rental for the use of the articles so bailed, determined
11 as nearly as possible according to the value of such use at the places
12 of use of similar products of like quality and character under such
13 rules as the department of revenue may prescribe. In case any such
14 articles of tangible personal property are used in respect to the
15 construction, repairing, decorating, or improving of, and which become
16 or are to become an ingredient or component of, new or existing
17 buildings or other structures under, upon, or above real property of or
18 for the United States, any instrumentality thereof, or a county or city
19 housing authority created pursuant to chapter 35.82 RCW, including the
20 installing or attaching of any such articles therein or thereto,
21 whether or not such personal property becomes a part of the realty by
22 virtue of installation, then the value of the use of such articles so
23 used shall be determined according to the retail selling price of such
24 articles, or in the absence of such a selling price, as nearly as
25 possible according to the retail selling price at place of use of
26 similar products of like quality and character or, in the absence of
27 either of these selling price measures, such value may be determined
28 upon a cost basis, in any event under such rules as the department of
29 revenue may prescribe.

30 (c) In the case of articles owned by a user engaged in business
31 outside the state which are brought into the state for no more than one
32 hundred eighty days in any period of three hundred sixty-five
33 consecutive days and which are temporarily used for business purposes
34 by the person in this state, the value of the article used shall be an
35 amount representing a reasonable rental for the use of the articles,
36 unless the person has paid tax under this chapter or chapter 82.08 RCW
37 upon the full value of the article used, as defined in (a) of this
38 subsection.

1 (d) In the case of articles manufactured or produced by the user
2 and used in the manufacture or production of products sold or to be
3 sold to the department of defense of the United States, the value of
4 the articles used shall be determined according to the value of the
5 ingredients of such articles.

6 (e) In the case of an article manufactured or produced for purposes
7 of serving as a prototype for the development of a new or improved
8 product, the value of the article used shall be determined by: (i) The
9 retail selling price of such new or improved product when first offered
10 for sale; or (ii) the value of materials incorporated into the
11 prototype in cases in which the new or improved product is not offered
12 for sale;

13 (2) "Use," "used," "using," or "put to use" shall have their
14 ordinary meaning, and shall mean:

15 (a) With respect to tangible personal property, the first act
16 within this state by which the taxpayer takes or assumes dominion or
17 control over the article of tangible personal property (as a consumer),
18 and include installation, storage, withdrawal from storage, or any
19 other act preparatory to subsequent actual use or consumption within
20 this state; and

21 (b) With respect to a service, the receipt by the taxpayer of any
22 part of the benefit afforded by the service;

23 (3) "Taxpayer" and "purchaser" include all persons included within
24 the meaning of the word "buyer" and the word "consumer" as defined in
25 chapters 82.04 and 82.08 RCW;

26 (4) "Retailer" means every seller as defined in RCW 82.08.010 and
27 every person engaged in the business of selling tangible personal
28 property at retail and every person required to collect from purchasers
29 the tax imposed under this chapter;

30 (5) The meaning ascribed to words and phrases in chapters 82.04 and
31 82.08 RCW, insofar as applicable, shall have full force and effect with
32 respect to taxes imposed under the provisions of this chapter.
33 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
34 and 82.08 RCW insofar as applicable, shall also mean any person who
35 distributes or displays, or causes to be distributed or displayed, any
36 article of tangible personal property, except newspapers, the primary
37 purpose of which is to promote the sale of products or services.

1 **Sec. 206.** RCW 82.12.020 and 1998 c 332 s 7 are each amended to
2 read as follows:

3 (1) There is hereby levied and there shall be collected from every
4 person in this state a tax or excise for the privilege of using within
5 this state as a consumer: (a) Any article of tangible personal
6 property purchased at retail, or acquired by lease, gift, repossession,
7 or bailment, or extracted or produced or manufactured by the person so
8 using the same, or otherwise furnished to a person engaged in any
9 business taxable under RCW 82.04.280 (2) or (7); (b) any canned
10 software, regardless of the method of delivery, but excluding canned
11 software that is either provided free of charge or is provided for
12 temporary use in viewing information, or both; or (c) any (~~amusement~~
13 ~~or recreation~~) service defined as a retail sale in RCW 82.04.050
14 (3)(a) or (5).

15 (2) This tax shall apply to the use of every service defined as a
16 retail sale in RCW 82.04.050 (3)(a) or (5) and the use of every article
17 of tangible personal property, including property acquired at a casual
18 or isolated sale, and including byproducts used by the manufacturer
19 thereof, except as hereinafter provided, irrespective of whether the
20 article or similar articles are manufactured or are available for
21 purchase within this state.

22 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
23 or user of tangible personal property or service of the tax imposed by
24 chapter 82.08 or 82.12 RCW shall not have the effect of exempting any
25 other purchaser or user of the same property or service from the taxes
26 imposed by such chapters.

27 (4) The tax shall be levied and collected in an amount equal to the
28 value of the article used by the taxpayer multiplied by the rate in
29 effect for the retail sales tax under RCW 82.08.020.

30 **Sec. 207.** RCW 82.12.023 and 1994 c 124 s 10 are each amended to
31 read as follows:

32 The tax levied by RCW 82.12.020 shall not apply in respect to the
33 use of natural or manufactured gas that is (~~taxable under RCW~~
34 ~~82.12.022~~) provided as part of gas service defined as a retail sale in
35 RCW 82.04.050(5).

36 **Sec. 208.** RCW 82.12.035 and 1996 c 148 s 6 are each amended to
37 read as follows:

1 A credit shall be allowed against the taxes imposed by this chapter
2 upon the use of tangible personal property, or services taxable under
3 RCW 82.04.050 (3)(a) or (5), in the state of Washington in the amount
4 that the present user thereof or his or her bailor or donor has paid a
5 retail sales or use tax with respect to such property to any other
6 state of the United States, any political subdivision thereof, the
7 District of Columbia, and any foreign country or political subdivision
8 thereof, prior to the use of such property in Washington.

9 **PART III**

10 **LOCAL SALES AND USE TAXES**

11 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.14
12 RCW to read as follows:

13 (1) The legislative authority of any city or county may impose a
14 sales and use tax upon the sale or use of telecommunication services,
15 electrical services, and gas services. In cities and counties with
16 legislative authorities of four or fewer members, two-thirds of the
17 members must approve an ordinance or resolution under this section. In
18 cities and counties with legislative authorities of more than four
19 members, a majority plus one vote must approve an ordinance or
20 resolution under this section.

21 (2) A tax imposed under this section shall be collected from those
22 persons who are taxable by the state pursuant to chapters 82.08 and
23 82.12 RCW, upon the occurrence of any taxable event within the city or
24 county as the case may be. The rate of tax shall not exceed five and
25 five-tenths percent of the selling price (in the case of a sales tax)
26 or value of the service used (in the case of a use tax).

27 (3) Any county ordinance adopted under this section shall contain,
28 in addition to all other provisions required to conform to this
29 chapter, a provision allowing a credit against the county tax imposed
30 under this section for the full amount of any city sales or use tax
31 imposed under this section upon the same taxable event.

32 **Sec. 302.** RCW 82.14.020 and 1997 c 201 s 1 are each amended to
33 read as follows:

34 For purposes of this chapter:

1 (1) A retail sale consisting solely of the sale of tangible
2 personal property shall be deemed to have occurred at the retail outlet
3 at or from which delivery is made to the consumer;

4 (2) A retail sale consisting essentially of the performance of
5 personal business or professional services shall be deemed to have
6 occurred at the place at which such services were primarily performed,
7 except that for the performance of a tow truck service, as defined in
8 RCW 46.55.010, the retail sale shall be deemed to have occurred at the
9 place of business of the operator of the tow truck service;

10 (3) A retail sale consisting of the rental of tangible personal
11 property shall be deemed to have occurred (a) in the case of a rental
12 involving periodic rental payments, at the primary place of use by the
13 lessee during the period covered by each payment, or (b) in all other
14 cases, at the place of first use by the lessee;

15 (4) A retail sale within the scope of the second paragraph of RCW
16 82.04.050, and a retail sale of taxable personal property to be
17 installed by the seller shall be deemed to have occurred at the place
18 where the labor and services involved were primarily performed;

19 (5) A retail sale (~~consisting of the providing to a consumer of~~
20 ~~telephone service, as defined in RCW 82.04.065, other than a sale of~~
21 ~~tangible personal property under subsection (1) of this section or a~~
22 ~~rental of tangible personal property under subsection (3) of this~~
23 ~~section,~~) of telecommunication service shall be deemed to have
24 occurred at the situs of the (~~telephone or other~~) instrument through
25 which the (~~telephone~~) service is rendered;

26 (6) A retail sale of electric service or gas service shall be
27 deemed to have occurred at the situs of the meter measuring the
28 electricity or gas delivered to the consumer;

29 (7) "City" means a city or town;

30 ((+7)) (8) The meaning ascribed to words and phrases in chapters
31 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as
32 applicable, shall have full force and effect with respect to taxes
33 imposed under authority of this chapter;

34 ((+8)) (9) "Taxable event" shall mean any retail sale, or any use
35 of an article of tangible personal property or service, upon which a
36 state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they
37 now exist or may hereafter be amended: PROVIDED, HOWEVER, That the
38 term shall not include a retail sale taxable pursuant to RCW 82.08.150,
39 as now or hereafter amended;

1 (~~(9)~~) (10) "Treasurer or other legal depository" shall mean the
2 treasurer or legal depository of a county or city.

3 **Sec. 303.** RCW 82.14.030 and 1989 c 384 s 6 are each amended to
4 read as follows:

5 (1) The governing body of any county or city while not required by
6 legislative mandate to do so, may, by resolution or ordinance for the
7 purposes authorized by this chapter, fix and impose a sales and use tax
8 in accordance with the terms of this chapter. Such tax shall be
9 collected from those persons who are taxable by the state pursuant to
10 chapters 82.08 and 82.12 RCW, upon the occurrence of any taxable event
11 within the county or city as the case may be: PROVIDED, That (~~except~~
12 ~~as provided in RCW 82.14.230,~~) this sales and use tax shall not apply
13 to (~~natural or manufactured gas~~) telecommunication service,
14 electrical service, or gas service. The rate of such tax imposed by a
15 county shall be five-tenths of one percent of the selling price (in the
16 case of a sales tax) or value of the article used (in the case of a use
17 tax). The rate of such tax imposed by a city shall not exceed five-
18 tenths of one percent of the selling price (in the case of a sales tax)
19 or value of the article used (in the case of a use tax): PROVIDED,
20 HOWEVER, That in the event a county shall impose a sales and use tax
21 under this subsection, the rate of such tax imposed under this
22 subsection by any city therein shall not exceed four hundred and
23 twenty-five one-thousandths of one percent.

24 (2) Subject to the enactment into law of the 1982 amendment to RCW
25 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in
26 addition to the tax authorized in subsection (1) of this section, the
27 governing body of any county or city may by resolution or ordinance
28 impose an additional sales and use tax in accordance with the terms of
29 this chapter. Such additional tax shall be collected upon the same
30 taxable events upon which the tax imposed under subsection (1) of this
31 section is levied. The rate of such additional tax imposed by a county
32 shall be up to five-tenths of one percent of the selling price (in the
33 case of a sales tax) or value of the article used (in the case of a use
34 tax). The rate of such additional tax imposed by a city shall be up to
35 five-tenths of one percent of the selling price (in the case of a sales
36 tax) or value of the article used (in the case of a use tax): PROVIDED
37 HOWEVER, That in the event a county shall impose a sales and use tax
38 under this subsection at a rate equal to or greater than the rate

1 imposed under this subsection by a city within the county, the county
2 shall receive fifteen percent of the city tax: PROVIDED FURTHER, That
3 in the event that the county shall impose a sales and use tax under
4 this subsection at a rate which is less than the rate imposed under
5 this subsection by a city within the county, the county shall receive
6 that amount of revenues from the city tax equal to fifteen percent of
7 the rate of tax imposed by the county under this subsection. The
8 authority to impose a tax under this subsection is intended in part to
9 compensate local government for any losses from the phase-out of the
10 property tax on business inventories.

11 **Sec. 304.** RCW 82.14.045 and 1998 c 321 s 7 (Referendum Bill No.
12 49) are each amended to read as follows:

13 (1) The legislative body of any city pursuant to RCW 35.92.060, of
14 any county which has created an unincorporated transportation benefit
15 area pursuant to RCW 36.57.100 and 36.57.110, of any public
16 transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090,
17 of any county transportation authority established pursuant to chapter
18 36.57 RCW, and of any metropolitan municipal corporation within a
19 county with a population of one million or more pursuant to chapter
20 35.58 RCW, may, by resolution or ordinance for the sole purpose of
21 providing funds for the operation, maintenance, or capital needs of
22 public transportation systems and in lieu of the excise taxes
23 authorized by RCW 35.95.040, submit an authorizing proposition to the
24 voters or include such authorization in a proposition to perform the
25 function of public transportation and if approved by a majority of
26 persons voting thereon, fix and impose a sales and use tax in
27 accordance with the terms of this chapter: PROVIDED, That no such
28 legislative body shall impose such a sales and use tax without
29 submitting such an authorizing proposition to the voters and obtaining
30 the approval of a majority of persons voting thereon: PROVIDED
31 FURTHER, That where such a proposition is submitted by a county on
32 behalf of an unincorporated transportation benefit area, it shall be
33 voted upon by the voters residing within the boundaries of such
34 unincorporated transportation benefit area and, if approved, the sales
35 and use tax shall be imposed only within such area. Notwithstanding
36 any provisions of this section to the contrary, any county in which a
37 county public transportation plan has been adopted pursuant to RCW
38 36.57.070 and the voters of such county have authorized the imposition

1 of a sales and use tax pursuant to the provisions of section 10,
2 chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be
3 authorized to fix and impose a sales and use tax as provided in this
4 section at not to exceed the rate so authorized without additional
5 approval of the voters of such county as otherwise required by this
6 section.

7 The tax authorized pursuant to this section shall be in addition to
8 (~~the tax authorized by RCW 82.14.030~~) any other taxes authorized by
9 law and shall be collected from those persons who are taxable by the
10 state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of
11 any taxable event within such city, public transportation benefit area,
12 county, or metropolitan municipal corporation as the case may be:
13 PROVIDED, That this sales and use tax shall not apply to
14 telecommunication service, electrical service, or gas service. The
15 rate of such tax shall be one-tenth, two-tenths, three-tenths, four-
16 tenths, five-tenths, or six-tenths of one percent of the selling price
17 (in the case of a sales tax) or value of the article used (in the case
18 of a use tax). The rate of such tax shall not exceed the rate
19 authorized by the voters unless such increase shall be similarly
20 approved.

21 (2)(a) In the event a metropolitan municipal corporation shall
22 impose a sales and use tax pursuant to this chapter no city, county
23 which has created an unincorporated transportation benefit area, public
24 transportation benefit area authority, or county transportation
25 authority wholly within such metropolitan municipal corporation shall
26 be empowered to levy and/or collect taxes pursuant to RCW 35.58.273,
27 35.95.040, and/or 82.14.045, but nothing herein shall prevent such city
28 or county from imposing sales and use taxes pursuant to any other
29 authorization.

30 (b) In the event a county transportation authority shall impose a
31 sales and use tax pursuant to this section, no city, county which has
32 created an unincorporated transportation benefit area, public
33 transportation benefit area, or metropolitan municipal corporation,
34 located within the territory of the authority, shall be empowered to
35 levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or
36 82.14.045.

37 (c) In the event a public transportation benefit area shall impose
38 a sales and use tax pursuant to this section, no city, county which has
39 created an unincorporated transportation benefit area, or metropolitan

1 municipal corporation, located wholly or partly within the territory of
2 the public transportation benefit area, shall be empowered to levy or
3 collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

4 (3) Any local sales and use tax revenue collected pursuant to this
5 section by any city or by any county for transportation purposes
6 pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally
7 generated tax revenues for the purposes of apportionment and
8 distribution, in the manner prescribed by chapter 82.44 RCW, of the
9 proceeds of the motor vehicle excise tax authorized pursuant to RCW
10 35.58.273, except that the local sales and use tax revenue collected
11 under this section by a city with a population greater than sixty
12 thousand that as of January 1, 1998, owns and operates a municipal
13 public transportation system shall be counted as locally generated tax
14 revenues for the purposes of apportionment and distribution, in the
15 manner prescribed by chapter 82.44 RCW, of the proceeds of the motor
16 vehicle excise tax authorized under RCW 35.58.273 as follows:

17 (a) For fiscal year 2000, revenues collected under this section
18 shall be counted as locally generated tax revenues for up to 25 percent
19 of the tax collected under RCW 35.58.273;

20 (b) For fiscal year 2001, revenues collected under this section
21 shall be counted as locally generated tax revenues for up to 50 percent
22 of the tax collected under RCW 35.58.273;

23 (c) For fiscal year 2002, revenues collected under this section
24 shall be counted as locally generated tax revenues for up to 75 percent
25 of the tax collected under RCW 35.58.273; and

26 (d) For fiscal year 2003 and thereafter, revenues collected under
27 this section shall be counted as locally generated tax revenues for up
28 to 100 percent of the tax collected under RCW 35.58.273.

29 **Sec. 305.** RCW 82.14.048 and 1995 c 396 s 6 are each amended to
30 read as follows:

31 The governing board of a public facilities district under chapter
32 36.100 RCW may submit an authorizing proposition to the voters of the
33 district, and if the proposition is approved by a majority of persons
34 voting, fix and impose a sales and use tax in accordance with the terms
35 of this chapter.

36 The tax authorized in this section shall be in addition to any
37 other taxes authorized by law and shall be collected from those persons
38 who are taxable by the state under chapters 82.08 and 82.12 RCW upon

1 the occurrence of any taxable event within the public facilities
2 district: PROVIDED, That this sales and use tax shall not apply to
3 telecommunication service, electrical service, or gas service. The
4 rate of tax shall equal one-tenth of one percent of the selling price
5 in the case of a sales tax, or value of the article used, in the case
6 of a use tax.

7 Moneys received from any tax imposed under this section shall be
8 used for the purpose of providing funds for the costs associated with
9 the financing, design, acquisition, construction, equipping, operating,
10 maintaining, remodeling, repairing, and reequipping of its public
11 facilities.

12 **Sec. 306.** RCW 82.14.0485 and 1995 3rd sp.s. c 1 s 101 are each
13 amended to read as follows:

14 (1) The legislative authority of a county with a population of one
15 million or more may impose a sales and use tax in accordance with the
16 terms of this chapter. The tax is in addition to other taxes
17 authorized by law and shall be collected from those persons who are
18 taxable by the state under chapters 82.08 and 82.12 RCW upon the
19 occurrence of any taxable event within the county: PROVIDED, That this
20 sales and use tax shall not apply to telecommunication service,
21 electrical service, or gas service. The rate of tax shall not exceed
22 0.017 percent of the selling price in the case of a sales tax or value
23 of the article used in the case of a use tax.

24 (2) The tax imposed under subsection (1) of this section shall be
25 deducted from the amount of tax otherwise required to be collected or
26 paid over to the department of revenue under chapter 82.08 or 82.12
27 RCW. The department of revenue shall perform the collection of such
28 taxes on behalf of the county at no cost to the county.

29 (3) Moneys collected under this section shall only be used for the
30 purpose of paying the principal and interest payments on bonds issued
31 by a county to construct a baseball stadium.

32 (4) No tax may be collected under this section before January 1,
33 1996, and no tax may be collected under this section unless the taxes
34 under RCW 82.14.360 are being collected. The tax imposed in this
35 section shall expire when the bonds issued for the construction of the
36 baseball stadium are retired, but not more than twenty years after the
37 tax is first collected.

1 (5) As used in this section, "baseball stadium" means a baseball
2 stadium with natural turf and a retractable roof or canopy, together
3 with associated parking facilities, constructed in the largest city in
4 a county with a population of one million or more.

5 **Sec. 307.** RCW 82.14.0494 and 1997 c 220 s 204 (Referendum Bill No.
6 48) are each amended to read as follows:

7 (1) The legislative authority of a county that has created a public
8 stadium authority to develop a stadium and exhibition center under RCW
9 36.102.050 may impose a sales and use tax in accordance with this
10 chapter. The tax is in addition to other taxes authorized by law and
11 shall be collected from those persons who are taxable by the state
12 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
13 event within the county: PROVIDED, That this sales and use tax shall
14 not apply to telecommunication service, electrical service, or gas
15 service. The rate of tax shall be 0.016 percent of the selling price
16 in the case of a sales tax or value of the article used in the case of
17 a use tax.

18 (2) The tax imposed under subsection (1) of this section shall be
19 deducted from the amount of tax otherwise required to be collected or
20 paid over to the department of revenue under chapter 82.08 or 82.12
21 RCW. The department of revenue shall perform the collection of such
22 taxes on behalf of the county at no cost to the county.

23 (3) Before the issuance of bonds in RCW 43.99N.020, all revenues
24 collected on behalf of the county under this section shall be
25 transferred to the public stadium authority. After bonds are issued
26 under RCW 43.99N.020, all revenues collected on behalf of the county
27 under this section shall be deposited in the stadium and exhibition
28 center account under RCW 43.99N.060.

29 (4) The definitions in RCW 36.102.010 apply to this section.

30 (5) This section expires on the earliest of the following dates:

31 (a) December 31, 1999, if the conditions for issuance of bonds
32 under RCW 43.99N.020 have not been met before that date;

33 (b) The date on which all bonds issued under RCW 43.99N.020 have
34 been retired; or

35 (c) Twenty-three years after the date the tax under this section is
36 first imposed.

1 **Sec. 308.** RCW 82.14.340 and 1995 c 309 s 1 are each amended to
2 read as follows:

3 The legislative authority of any county may fix and impose a sales
4 and use tax in accordance with the terms of this chapter, provided that
5 such sales and use tax is subject to repeal by referendum, using the
6 procedures provided in RCW 82.14.036. The referendum procedure
7 provided in RCW 82.14.036 is the exclusive method for subjecting any
8 county sales and use tax ordinance or resolution to a referendum vote.

9 The tax authorized in this section shall be in addition to any
10 other taxes authorized by law and shall be collected from those persons
11 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW
12 upon the occurrence of any taxable event within such county: PROVIDED,
13 That this sales and use tax shall not apply to telecommunication
14 service, electrical service, or gas service. The rate of tax shall
15 equal one-tenth of one percent of the selling price (in the case of a
16 sales tax) or value of the article used (in the case of a use tax).

17 When distributing moneys collected under this section, the state
18 treasurer shall distribute ten percent of the moneys to the county in
19 which the tax was collected. The remainder of the moneys collected
20 under this section shall be distributed to the county and the cities
21 within the county ratably based on population as last determined by the
22 office of financial management. In making the distribution based on
23 population, the county shall receive that proportion that the
24 unincorporated population of the county bears to the total population
25 of the county and each city shall receive that proportion that the city
26 incorporated population bears to the total county population.

27 Moneys received from any tax imposed under this section shall be
28 expended exclusively for criminal justice purposes and shall not be
29 used to replace or supplant existing funding. Criminal justice
30 purposes are defined as activities that substantially assist the
31 criminal justice system, which may include circumstances where
32 ancillary benefit to the civil justice system occurs, and which
33 includes domestic violence services such as those provided by domestic
34 violence programs, community advocates, and legal advocates, as defined
35 in RCW 70.123.020. Existing funding for purposes of this subsection is
36 defined as calendar year 1989 actual operating expenditures for
37 criminal justice purposes. Calendar year 1989 actual operating
38 expenditures for criminal justice purposes exclude the following:
39 Expenditures for extraordinary events not likely to reoccur, changes in

1 contract provisions for criminal justice services, beyond the control
2 of the local jurisdiction receiving the services, and major
3 nonrecurring capital expenditures.

4 In the expenditure of funds for criminal justice purposes as
5 provided in this section, cities and counties, or any combination
6 thereof, are expressly authorized to participate in agreements,
7 pursuant to chapter 39.34 RCW, to jointly expend funds for criminal
8 justice purposes of mutual benefit. Such criminal justice purposes of
9 mutual benefit include, but are not limited to, the construction,
10 improvement, and expansion of jails, court facilities, and juvenile
11 justice facilities.

12 **Sec. 309.** RCW 82.14.350 and 1995 2nd sp.s. c 10 s 1 are each
13 amended to read as follows:

14 (1) A county legislative authority in a county with a population of
15 less than one million may submit an authorizing proposition to the
16 county voters, and if the proposition is approved by a majority of
17 persons voting, fix and impose a sales and use tax in accordance with
18 the terms of this chapter for the purposes designated in subsection (3)
19 of this section.

20 (2) The tax authorized in this section shall be in addition to any
21 other taxes authorized by law and shall be collected from those persons
22 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
23 the occurrence of any taxable event within the county: PROVIDED, That
24 this sales and use tax shall not apply to telecommunication service,
25 electrical service, or gas service. The rate of tax shall equal one-
26 tenth of one percent of the selling price in the case of a sales tax,
27 or value of the article used, in the case of a use tax.

28 (3) Moneys received from any tax imposed under this section shall
29 be used solely for the purpose of providing funds for costs associated
30 with financing, design, acquisition, construction, equipping,
31 operating, maintaining, remodeling, repairing, reequipping, and
32 improvement of juvenile detention facilities and jails.

33 (4) Counties are authorized to develop joint ventures to colocate
34 juvenile detention facilities and to colocate jails.

35 **Sec. 310.** RCW 82.14.370 and 1998 c 55 s 6 are each amended to read
36 as follows:

1 (1) The legislative authority of a distressed county may impose a
2 sales and use tax in accordance with the terms of this chapter. The
3 tax is in addition to other taxes authorized by law and shall be
4 collected from those persons who are taxable by the state under
5 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event
6 within the county: PROVIDED, That this sales and use tax shall not
7 apply to telecommunication service, electrical service, or gas service.
8 The rate of tax shall not exceed 0.04 percent of the selling price in
9 the case of a sales tax or value of the article used in the case of a
10 use tax.

11 (2) The tax imposed under subsection (1) of this section shall be
12 deducted from the amount of tax otherwise required to be collected or
13 paid over to the department of revenue under chapter 82.08 or 82.12
14 RCW. The department of revenue shall perform the collection of such
15 taxes on behalf of the county at no cost to the county.

16 (3) Moneys collected under this section shall only be used for the
17 purpose of financing public facilities in rural counties.

18 (4) No tax may be collected under this section before July 1, 1998.
19 No tax may be collected under this section by a county more than
20 twenty-five years after the date that a tax is first imposed under this
21 section.

22 (5) For purposes of this section, "distressed county" means a
23 county in which the average level of unemployment for the three years
24 before the year in which a tax is first imposed under this section
25 exceeds the average state unemployment for those years by twenty
26 percent.

27 **Sec. 311.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to
28 read as follows:

29 Cities that operate transit systems, county transportation
30 authorities, metropolitan municipal corporations, public transportation
31 benefit areas, and regional transit authorities may submit an
32 authorizing proposition to the voters and if approved by a majority of
33 persons voting, fix and impose a sales and use tax in accordance with
34 the terms of this chapter, solely for the purpose of providing high
35 capacity transportation service.

36 The tax authorized pursuant to this section shall be in addition to
37 ~~((the tax authorized by RCW 82.14.030))~~ any other taxes authorized by
38 law and shall be collected from those persons who are taxable by the

1 state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of
2 any taxable event within the taxing district: PROVIDED, That this
3 sales and use tax shall not apply to telecommunication service,
4 electrical service, or gas service. The maximum rate of such tax shall
5 be approved by the voters and shall not exceed one percent of the
6 selling price (in the case of a sales tax) or value of the article used
7 (in the case of a use tax). The maximum rate of such tax that may be
8 imposed shall not exceed nine-tenths of one percent in any county that
9 imposes a tax under RCW 82.14.340, or within a regional transit
10 authority if any county within the authority imposes a tax under RCW
11 82.14.340. The exemptions in RCW 82.08.820 and 82.12.820 are for the
12 state portion of the sales and use tax and do not extend to the tax
13 authorized in this section.

14 **PART IV**

15 **STATE PUBLIC UTILITY TAX**

16 **Sec. 401.** RCW 82.16.010 and 1996 c 150 s 1 are each amended to
17 read as follows:

18 For the purposes of this chapter, unless otherwise required by the
19 context:

20 (1) "Railroad business" means the business of operating any
21 railroad, by whatever power operated, for public use in the conveyance
22 of persons or property for hire. It shall not, however, include any
23 business herein defined as an urban transportation business.

24 (2) "Express business" means the business of carrying property for
25 public hire on the line of any common carrier operated in this state,
26 when such common carrier is not owned or leased by the person engaging
27 in such business.

28 (3) "Railroad car business" means the business of operating stock
29 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
30 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
31 other kinds of cars used for transportation of property or persons upon
32 the line of any railroad operated in this state when such railroad is
33 not owned or leased by the person engaging in such business.

34 (4) "Water distribution business" means the business of operating
35 a plant or system for the distribution of water for hire or sale.

36 (5) (~~"Light and power business" means the business of operating a~~
37 ~~plant or system for the generation, production or distribution of~~

1 electrical energy for hire or sale and/or for the wheeling of
2 electricity for others.

3 ~~(6)~~ "Telegraph business" means the business of affording
4 telegraphic communication for hire.

5 ~~(7)~~ "Gas distribution business" means the business of operating a
6 plant or system for the production or distribution for hire or sale of
7 gas, whether manufactured or natural.

8 ~~(8))~~ "Motor transportation business" means the business (except
9 urban transportation business) of operating any motor propelled vehicle
10 by which persons or property of others are conveyed for hire, and
11 includes, but is not limited to, the operation of any motor propelled
12 vehicle as an auto transportation company (except urban transportation
13 business), common carrier or contract carrier as defined by RCW
14 81.68.010 and 81.80.010: PROVIDED, That "motor transportation
15 business" shall not mean or include the transportation of logs or other
16 forest products exclusively upon private roads or private highways.

17 ~~((9))~~ (6) "Urban transportation business" means the business of
18 operating any vehicle for public use in the conveyance of persons or
19 property for hire, insofar as (a) operating entirely within the
20 corporate limits of any city or town, or within five miles of the
21 corporate limits thereof, or (b) operating entirely within and between
22 cities and towns whose corporate limits are not more than five miles
23 apart or within five miles of the corporate limits of either thereof.
24 Included herein, but without limiting the scope hereof, is the business
25 of operating passenger vehicles of every type and also the business of
26 operating cartage, pickup, or delivery services, including in such
27 services the collection and distribution of property arriving from or
28 destined to a point within or without the state, whether or not such
29 collection or distribution be made by the person performing a local or
30 interstate line-haul of such property.

31 ~~((10))~~ (7) "Public service business" means any of the businesses
32 defined in ~~((subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and~~
33 ~~(9))~~ this section or any business subject to control by the state, or
34 having the powers of eminent domain and the duties incident thereto, or
35 any business hereafter declared by the legislature to be of a public
36 service nature, except ~~((telephone business as defined in RCW~~
37 ~~82.04.065))~~ telecommunication service, electrical service, or gas
38 service and low-level radioactive waste site operating companies as
39 redefined in RCW 81.04.010. It includes, among others, without

1 limiting the scope hereof: Airplane transportation, boom, dock, ferry,
2 pipe line, toll bridge, toll logging road, water transportation and
3 wharf businesses.

4 ~~((11))~~ (8) "Tugboat business" means the business of operating
5 tugboats, towboats, wharf boats or similar vessels in the towing or
6 pushing of vessels, barges or rafts for hire.

7 ~~((12))~~ (9) "Gross income" means the value proceeding or accruing
8 from the performance of the particular public service or transportation
9 business involved, including operations incidental thereto, but without
10 any deduction on account of the cost of the commodity furnished or
11 sold, the cost of materials used, labor costs, interest, discount,
12 delivery costs, taxes, or any other expense whatsoever paid or accrued
13 and without any deduction on account of losses.

14 ~~((13))~~ (10) The meaning attributed, in chapter 82.04 RCW, to the
15 term "tax year," "person," "value proceeding or accruing," "business,"
16 "engaging in business," "in this state," "within this state," "cash
17 discount," "telecommunication service," "electrical service," "gas
18 service," and "successor" shall apply equally in the provisions of this
19 chapter.

20 **Sec. 402.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to
21 read as follows:

22 (1) There is levied and there shall be collected from every person
23 a tax for the act or privilege of engaging within this state in any one
24 or more of the businesses herein mentioned. The tax shall be equal to
25 the gross income of the business, multiplied by the rate set out after
26 the business, as follows:

27 (a) Express~~((7))~~ and sewerage collection~~((, and telegraph))~~
28 businesses: Three and six-tenths percent;

29 (b) ~~((Light and power business: Three and sixty two one hundredths~~
30 ~~percent;~~

31 ~~((c) Gas distribution business: Three and six tenths percent;~~

32 ~~((d))~~ Urban transportation business: Six-tenths of one percent;

33 ~~((e))~~ (c) Vessels under sixty-five feet in length, except
34 tugboats, operating upon the waters within the state: Six-tenths of
35 one percent;

36 ~~((f))~~ (d) Motor transportation, railroad, railroad car, and
37 tugboat businesses, and all public service businesses other than ones
38 mentioned above: One and eight-tenths of one percent;

1 (~~(g)~~) (e) Water distribution business: Four and seven-tenths
2 percent.

3 (2) An additional tax is imposed equal to the rate specified in RCW
4 82.02.030 multiplied by the tax payable under subsection (1) of this
5 section.

6 (3) Twenty percent of the moneys collected under subsection (1) of
7 this section on water distribution businesses and sixty percent of the
8 moneys collected under subsection (1) of this section on sewerage
9 collection businesses shall be deposited in the public works assistance
10 account created in RCW 43.155.050.

11 **Sec. 403.** RCW 82.16.050 and 1994 c 124 s 12 are each amended to
12 read as follows:

13 In computing tax there may be deducted from the gross income the
14 following items:

15 (1) Amounts derived by municipally owned or operated public service
16 businesses, directly from taxes levied for the support or maintenance
17 thereof: PROVIDED, That this section shall not be construed to exempt
18 service charges which are spread on the property tax rolls and
19 collected as taxes;

20 (2) Amounts derived from the sale of commodities to persons in the
21 same public service business as the seller, for resale as such within
22 this state. This deduction is allowed only with respect to water
23 distribution(~~(, light and power, gas distribution)~~) or other public
24 service businesses which furnish water(~~(, electrical energy, gas)~~) or
25 any other commodity in the performance of public service businesses;

26 (3) Amounts actually paid by a taxpayer to another person taxable
27 under this chapter as the latter's portion of the consideration due for
28 services furnished jointly by both, if the total amount has been
29 credited to and appears in the gross income reported for tax by the
30 former;

31 (4) The amount of cash discount actually taken by the purchaser or
32 customer;

33 (5) The amount of credit losses actually sustained by taxpayers
34 whose regular books of accounts are kept upon an accrual basis;

35 (6) Amounts derived from business which the state is prohibited
36 from taxing under the Constitution of this state or the Constitution or
37 laws of the United States;

1 (7) Amounts derived from the distribution of water through an
2 irrigation system, for irrigation purposes;

3 (8) Amounts derived from the transportation of commodities from
4 points of origin in this state to final destination outside this state,
5 or from points of origin outside this state to final destination in
6 this state, with respect to which the carrier grants to the shipper the
7 privilege of stopping the shipment in transit at some point in this
8 state for the purpose of storing, manufacturing, milling, or other
9 processing, and thereafter forwards the same commodity, or its
10 equivalent, in the same or converted form, under a through freight rate
11 from point of origin to final destination; and amounts derived from the
12 transportation of commodities from points of origin in the state to an
13 export elevator, wharf, dock or ship side on tidewater or navigable
14 tributaries thereto from which such commodities are forwarded, without
15 intervening transportation, by vessel, in their original form, to
16 interstate or foreign destinations: PROVIDED, That no deduction will
17 be allowed when the point of origin and the point of delivery to such
18 an export elevator, wharf, dock, or ship side are located within the
19 corporate limits of the same city or town;

20 ~~(9) ((Amounts derived from the production, sale, or transfer of
21 electrical energy for resale or consumption outside the state;~~

22 ~~(10))~~ Amounts derived from the distribution of water by a
23 nonprofit water association and used for capital improvements by that
24 nonprofit water association;

25 ~~((11))~~ (10) Amounts paid by a sewerage collection business
26 taxable under RCW 82.16.020(1)(a) to a person taxable under chapter
27 82.04 RCW for the treatment or disposal of sewage.

28

PART V

29

CITY LICENSE FEES AND BUSINESS TAXES

30 **Sec. 501.** RCW 35.21.710 and 1983 2nd ex.s. c 3 s 33 are each
31 amended to read as follows:

32 (1)(a) Any city which imposes a license fee or tax upon business
33 activities consisting of the making of retail sales of tangible
34 personal property, telecommunication service, electrical service, or
35 gas service which are measured by gross receipts or gross income from
36 such sales, shall impose such tax at a single uniform rate upon all
37 such business activities. The taxing authority granted to cities for

1 taxes upon business activities measured by gross receipts or gross
2 income from sales shall not exceed a rate of .0020; except (~~that~~) as
3 provided in this section or RCW 35.21.711. Any city with an adopted
4 ordinance at a higher rate, as of January 1, 1982 shall be limited to
5 a maximum increase of ten percent of the January 1982 rate, not to
6 exceed an annual incremental increase of two percent of current rate:
7 PROVIDED, That any adopted ordinance which classifies according to
8 different types of business or services shall be subject to both the
9 ten percent and the two percent annual incremental increase limitation
10 on each tax rate: PROVIDED FURTHER, That all surtaxes on business and
11 occupation classifications in effect as of January 1, 1982, shall
12 expire no later than December 31, 1982, or by expiration date
13 established by local ordinance.

14 (b)(i) Any city that imposed, as of July 1, 1997, a license fee or
15 tax upon business activities consisting of making retail sales of
16 telecommunication service, electrical service, or gas service with a
17 rate exceeding the rate allowed under (a) of this subsection, may
18 continue to impose a license fee or tax upon those businesses at a rate
19 not exceeding the rate imposed on July 1, 1997.

20 (ii) A city imposing a license fee or tax under this subsection
21 (1)(b) shall allow a credit against such license fee or tax for the
22 full amount of any sales or use tax imposed by the city or any other
23 city or county under section 301 of this act upon the same taxable
24 event. A credit under this subsection shall never reduce the license
25 fee or tax to less than zero.

26 (iii) A license fee or tax imposed under this subsection (1)(b)
27 shall expire six years after it is first imposed, unless extended for
28 up to six years by referendum submitted to the voters of the city
29 imposing the tax. A license fee or tax extended by referendum may be
30 extended for additional periods, not exceeding six years each, by
31 additional referenda.

32 (2) Cities which impose a license fee or tax upon business
33 activities consisting of the making of retail sales of tangible
34 personal property, telecommunication service, electrical service, or
35 gas service which are measured by gross receipts or gross income from
36 such sales, shall be required to submit an annual report to the state
37 auditor identifying the rate established and the revenues received from
38 each fee or tax. This section shall not apply to any business
39 activities subject to the tax imposed by chapter 82.16 RCW. ((For

1 purposes of this section, the providing to consumers of competitive
2 telephone service, as defined in RCW 82.04.065, shall be deemed to be
3 the retail sale of tangible personal property.))

4 (3) Any city which imposes license fees, franchise fees, taxes, or
5 any combination thereof, on business activities consisting of providing
6 cable service that are measured by gross receipts or gross income from
7 sales, shall limit such fees or taxes so that the combined rate does
8 not exceed eight percent on or after January 1, 2005.

9 (4) For the purposes of this section, "telecommunication service,"
10 "electrical service," "gas service," and "cable service" are defined as
11 provided in chapter 82.04 RCW.

12 **Sec. 502.** RCW 35.21.711 and 1982 1st ex.s. c 49 s 8 are each
13 amended to read as follows:

14 The qualified voters of any city or town may by majority vote
15 approve rates in excess of the provisions of RCW 35.21.710(1)(a).

16 **Sec. 503.** RCW 35.21.714 and 1989 c 103 s 1 are each amended to
17 read as follows:

18 Any city or town which imposes a license fee or tax upon the
19 business activity of ~~((engaging in the telephone business, as defined~~
20 ~~in RCW 82.04.065))~~ making sales of telecommunication service as defined
21 in chapter 82.04 RCW, which is measured by gross receipts or gross
22 income, may impose the fee or tax, if it desires, on one hundred
23 percent of the total gross revenue derived from intrastate toll
24 telephone services subject to the fee or tax~~((: PROVIDED, That the~~
25 ~~city shall not impose the fee or tax on that portion of network~~
26 ~~telephone service, as defined in RCW 82.04.065, which represents~~
27 ~~charges to another telecommunications company, as defined in RCW~~
28 ~~80.04.010, for connecting fees, switching charges, or carrier access~~
29 ~~charges relating to intrastate toll telephone services, or for access~~
30 ~~to, or charges for, interstate services, or charges for network~~
31 ~~telephone service that is purchased for the purpose of resale))).~~

32 **Sec. 504.** RCW 35.21.715 and 1989 c 103 s 2 are each amended to
33 read as follows:

34 ~~((Notwithstanding RCW 35.21.714 or 35A.82.060,))~~ Any city or town
35 which imposes a tax upon business activities measured by gross receipts
36 or gross income from sales, may impose such tax on that portion of

1 (~~network telephone service, as defined in RCW 82.04.065~~)
2 telecommunication service, as defined in chapter 82.04 RCW, which
3 represents charges to another telecommunications company, as defined in
4 RCW 80.04.010, for connecting fees, switching charges, or carrier
5 access charges relating to intrastate toll services, or charges for
6 ~~((network telephone))~~ telecommunication service that is purchased for
7 the purpose of resale. Such tax shall be levied at the same rate as is
8 applicable to ~~((other competitive telephone service as defined in RCW~~
9 ~~82.04.065))~~ businesses under RCW 35.21.710(1)(a).

10 **Sec. 505.** RCW 35.21.860 and 1983 2nd ex.s. c 3 s 39 are each
11 amended to read as follows:

12 (1) No city or town may impose a franchise fee or any other fee or
13 charge of whatever nature or description upon ~~((the light and power, or~~
14 ~~gas distribution businesses, as defined in RCW 82.16.010, or telephone~~
15 ~~business, as defined in RCW 82.04.065))~~ businesses providing
16 telecommunication service, electrical service, or gas service, as
17 defined in chapter 82.04 RCW, except that ~~((a) a tax authorized by RCW~~
18 ~~35.21.865 may be imposed and (b))~~ a fee may be charged to such
19 businesses that recovers actual administrative expenses incurred by a
20 city or town that are directly related to receiving and approving a
21 permit, license, and franchise, to inspecting plans and construction,
22 or to the preparation of a detailed statement pursuant to chapter
23 43.21C RCW.

24 (2) Subsection (1) of this section does not prohibit franchise fees
25 imposed on ~~((an electrical energy, natural gas, or telephone business))~~
26 businesses providing telecommunication service, electrical service, or
27 gas service, as defined in chapter 82.04 RCW, by contract existing on
28 April 20, 1982, with a city or town, for the duration of the contract,
29 but ~~((the franchise fees shall be considered taxes for the purposes of~~
30 ~~the limitations established in RCW 35.21.865 and 35.21.870))~~ to the
31 extent the fees exceed the costs allowable under subsection (1) of this
32 section, the combined rate of a franchise fee, a tax under section 301
33 of this act, and a tax under RCW 35.21.710 imposed by the city shall
34 not exceed the greater of: (a) The total rate of franchise fee and
35 license fee or tax imposed by the city upon businesses providing
36 telecommunication service, electrical service, or gas service, as
37 defined in chapter 82.04 RCW, on July 1, 1997; or (b) five and five-

1 tenths percent plus the rate in effect under RCW 35.21.710(1)(a) or
2 35.21.711.

3 **Sec. 506.** RCW 35A.82.050 and 1983 2nd ex.s. c 3 s 34 are each
4 amended to read as follows:

5 Any code city which imposes a license fee or tax upon business
6 activities consisting of the making of retail sales of tangible
7 personal property, telecommunication service, electrical service, or
8 gas service, which are measured by gross receipts or gross income from
9 such sales, (~~shall impose such tax at a single uniform rate upon all~~
10 ~~such business activities. This section shall not apply to any business~~
11 ~~activities subject to the tax imposed by chapter 82.16 RCW. For~~
12 ~~purposes of this section, the providing to consumers of competitive~~
13 ~~telephone service, as defined in RCW 82.04.065, shall be deemed to be~~
14 ~~the retail sale of tangible personal property)) is subject to RCW
15 35.21.710 through 35.21.715.~~

16 **PART VI**
17 **MISCELLANEOUS**

18 NEW SECTION. **Sec. 601.** The following acts or parts of acts are
19 each repealed:

- 20 (1) RCW 35.21.712 and 1983 2nd ex.s. c 3 s 35 & 1981 c 144 s 8;
- 21 (2) RCW 35.21.865 and 1983 c 99 s 4 & 1982 1st ex.s. c 49 s 3;
- 22 (3) RCW 35.21.870 and 1984 c 225 s 6, 1983 c 99 s 5, & 1982 1st
23 ex.s. c 49 s 4;
- 24 (4) RCW 35.21.871 and 1986 c 70 s 3;
- 25 (5) RCW 35A.82.055 and 1983 2nd ex.s. c 3 s 36 & 1981 c 144 s 9;
- 26 (6) RCW 35A.82.060 and 1989 c 103 s 3, 1986 c 70 s 4, 1983 2nd
27 ex.s. c 3 s 38, & 1981 c 144 s 11;
- 28 (7) RCW 35A.82.065 and 1989 c 103 s 4 & 1986 c 70 s 5;
- 29 (8) RCW 35A.82.070 and 1986 c 70 s 6;
- 30 (9) RCW 82.08.026 and 1994 c 124 s 8 & 1989 c 384 s 4;
- 31 (10) RCW 82.12.022 and 1994 c 124 s 9 & 1989 c 384 s 3;
- 32 (11) RCW 82.14.230 and 1989 c 384 s 2;
- 33 (12) RCW 82.16.053 and 1996 c 145 s 1 & 1994 c 236 s 1; and
- 34 (13) RCW 82.16.090 and 1988 c 228 s 1.

1 NEW SECTION. **Sec. 602.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 603.** Part headings used in this act are not any
6 part of the law.

7 NEW SECTION. **Sec. 604.** This act takes effect January 1, 2000.

--- END ---