

**HOUSE BILL 2425**

**State of Washington                      55th Legislature                      1998 Regular Session**

**By Representative B. Thomas**

Read first time . Referred to Committee on .

1            AN ACT Relating to telecommunication and energy taxes; amending RCW  
2 82.04.065, 82.04.050, 82.04.060, 82.04.120, 82.04.425, 82.04.460,  
3 82.08.020, 82.08.0289, 82.12.010, 82.12.020, 82.12.023, 82.12.035,  
4 82.14.020, 82.14.030, 82.16.010, 82.16.020, 82.16.050, 35.21.710,  
5 35.21.714, 35.21.715, 35.21.860, 35A.82.050, 35A.82.060, 35A.82.065,  
6 and 54.28.070; reenacting and amending RCW 82.04.190 and 82.08.02565;  
7 adding new sections to chapter 82.04 RCW; adding a new section to  
8 chapter 82.08 RCW; adding a new section to chapter 82.14 RCW; creating  
9 new sections; repealing RCW 35.21.711, 35.21.712, 35.21.865, 35.21.870,  
10 35.21.871, 35A.82.055, 35A.82.070, 82.08.026, 82.12.022, 82.14.230,  
11 82.16.053, and 82.16.090; and providing an effective date.

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

**PART I**

**GENERAL DEFINITIONS AND BUSINESS AND OCCUPATION TAX**

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

17            (1) (~~"Competitive telephone service" means the providing by any~~  
18 ~~person of telecommunications equipment or apparatus, or service related~~

1 ~~to that equipment or apparatus such as repair or maintenance service,~~  
2 ~~if the equipment or apparatus is of a type which can be provided by~~  
3 ~~persons that are not subject to regulation as telephone companies under~~  
4 ~~Title 80 RCW and for which a separate charge is made.))~~

5 "Telecommunication" means the transmission, between or among points  
6 specified by the user, of information of the user's choosing, without  
7 change in the form or content of the information as sent and received.

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

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

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

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

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

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

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

11        **Sec. 104.**    RCW 82.04.050 and 1997 c 127 s 1 are each amended to  
12   read as follows:

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

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

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

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

34        (d) Purchases for the purpose of consuming the property purchased  
35   in producing ferrosilicon which is subsequently used in producing  
36   magnesium for sale, if the primary purpose of such property is to

1 create a chemical reaction directly through contact with an ingredient  
2 of ferrosilicon(~~(i~~ or  
3 ~~(e) Purchases for the purpose of providing the property to~~  
4 ~~consumers as part of competitive telephone service, as defined in RCW~~  
5 ~~82.04.065))~~).

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

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

17 (a) The installing, repairing, cleaning, altering, imprinting, or  
18 improving of tangible personal property of or for consumers, including  
19 charges made for the mere use of facilities in respect thereto, but  
20 excluding sales of laundry service to members by nonprofit associations  
21 composed exclusively of nonprofit hospitals, and excluding services  
22 rendered in respect to live animals, birds and insects;

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

31 (c) The charge for labor and services rendered in respect to  
32 constructing, repairing, or improving any structure upon, above, or  
33 under any real property owned by an owner who conveys the property by  
34 title, possession, or any other means to the person performing such  
35 construction, repair, or improvement for the purpose of performing such  
36 construction, repair, or improvement and the property is then  
37 reconveyed by title, possession, or any other means to the original  
38 owner;

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

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

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

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

33 (3) The term "sale at retail" or "retail sale" shall include the  
34 sale of or charge made for personal, business, or professional services  
35 including amounts designated as interest, rents, fees, admission, and  
36 other service emoluments however designated, received by persons  
37 engaging in the following business activities:

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

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

5 (c) Credit bureau services;

6 (d) Automobile parking and storage garage services;

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

12 (f) Service charges associated with tickets to professional  
13 sporting events; and

14 (g) The following personal services: Physical fitness services,  
15 tanning salon services, tattoo parlor services, steam bath services,  
16 turkish bath services, escort services, and dating services.

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

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

23 (6) The term shall not include the sale of or charge made for labor  
24 and services rendered in respect to the building, repairing, or  
25 improving of any street, place, road, highway, easement, right of way,  
26 mass public transportation terminal or parking facility, bridge,  
27 tunnel, or trestle which is owned by a municipal corporation or  
28 political subdivision of the state or by the United States and which is  
29 used or to be used primarily for foot or vehicular traffic including  
30 mass transportation vehicles of any kind.

31 (7) The term shall also not include sales of chemical sprays or  
32 washes to persons for the purpose of postharvest treatment of fruit for  
33 the prevention of scald, fungus, mold, or decay, nor shall it include  
34 sales of feed, seed, seedlings, fertilizer, agents for enhanced  
35 pollination including insects such as bees, and spray materials to:

36 (a) Persons who participate in the federal conservation reserve  
37 program, the environmental quality incentives program, the wetlands  
38 reserve program, and the wildlife habitat incentives program, or their  
39 successors administered by the United States department of agriculture;

1 (b) farmers for the purpose of producing for sale any agricultural  
2 product; and (c) farmers acting under cooperative habitat development  
3 or access contracts with an organization exempt from federal income tax  
4 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of  
5 fish and wildlife to produce or improve wildlife habitat on land that  
6 the farmer owns or leases.

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

23 **Sec. 105.** RCW 82.04.060 and 1996 c 148 s 3 are each amended to  
24 read as follows:

25 "Sale at wholesale" or "wholesale sale" means any sale of tangible  
26 personal property, any sale of amusement or recreation services as  
27 defined in RCW 82.04.050(3)(a), or any sale of (~~telephone service as~~  
28 ~~defined in RCW 82.04.065~~) telecommunication service, electrical  
29 service, or gas service, which is not a sale at retail and means any  
30 charge made for labor and services rendered for persons who are not  
31 consumers, in respect to real or personal property, if such charge is  
32 expressly defined as a retail sale by RCW 82.04.050 when rendered to or  
33 for consumers: PROVIDED, That the term "real or personal property" as  
34 used in this section shall not include any natural products named in  
35 RCW 82.04.100.

36 **Sec. 106.** RCW 82.04.120 and 1997 c 384 s 1 are each amended to  
37 read as follows:

1 "To manufacture" embraces all activities of a commercial or  
2 industrial nature wherein labor or skill is applied, by hand or  
3 machinery, to materials so that as a result thereof a new, different or  
4 useful substance or article of tangible personal property is produced  
5 for sale or commercial or industrial use, and shall include the  
6 production or fabrication of special made or custom made articles, and  
7 the generation or production of electrical energy.

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

12 **Sec. 107.** RCW 82.04.190 and 1996 c 173 s 2, 1996 c 148 s 4, and  
13 1996 c 112 s 2 are each reenacted and amended to read as follows:

14 "Consumer" means the following:

15 (1) Any person who purchases, acquires, owns, holds, or uses any  
16 article of tangible personal property irrespective of the nature of the  
17 person's business and including, among others, without limiting the  
18 scope hereof, persons who install, repair, clean, alter, improve,  
19 construct, or decorate real or personal property of or for consumers  
20 other than for the purpose (a) of resale as tangible personal property  
21 in the regular course of business or (b) of incorporating such property  
22 as an ingredient or component of real or personal property when  
23 installing, repairing, cleaning, altering, imprinting, improving,  
24 constructing, or decorating such real or personal property of or for  
25 consumers or (c) of consuming such property in producing for sale a new  
26 article of tangible personal property or a new substance, of which such  
27 property becomes an ingredient or component or as a chemical used in  
28 processing, when the primary purpose of such chemical is to create a  
29 chemical reaction directly through contact with an ingredient of a new  
30 article being produced for sale or (d) purchases for the purpose of  
31 consuming the property purchased in producing ferrosilicon which is  
32 subsequently used in producing magnesium for sale, if the primary  
33 purpose of such property is to create a chemical reaction directly  
34 through contact with an ingredient of ferrosilicon;

35 (2)(a) Any person engaged in any business activity taxable under  
36 RCW 82.04.290; (b) any person who purchases, acquires, or uses any  
37 (~~telephone service as defined in RCW 82.04.065~~) telecommunication  
38 service, electrical service, or gas service, other than for resale in



1 the regular course of business; and (c) any person who purchases,  
2 acquires, or uses any amusement and recreation service defined in RCW  
3 82.04.050(3)(a), other than for resale in the regular course of  
4 business;

5 (3) Any person engaged in the business of contracting for the  
6 building, repairing or improving of any street, place, road, highway,  
7 easement, right of way, mass public transportation terminal or parking  
8 facility, bridge, tunnel, or trestle which is owned by a municipal  
9 corporation or political subdivision of the state of Washington or by  
10 the United States and which is used or to be used primarily for foot or  
11 vehicular traffic including mass transportation vehicles of any kind as  
12 defined in RCW 82.04.280, in respect to tangible personal property when  
13 such person incorporates such property as an ingredient or component of  
14 such publicly owned street, place, road, highway, easement, right of  
15 way, mass public transportation terminal or parking facility, bridge,  
16 tunnel, or trestle by installing, placing or spreading the property in  
17 or upon the right of way of such street, place, road, highway,  
18 easement, bridge, tunnel, or trestle or in or upon the site of such  
19 mass public transportation terminal or parking facility;

20 (4) Any person who is an owner, lessee or has the right of  
21 possession to or an easement in real property which is being  
22 constructed, repaired, decorated, improved, or otherwise altered by a  
23 person engaged in business, excluding only (a) municipal corporations  
24 or political subdivisions of the state in respect to labor and services  
25 rendered to their real property which is used or held for public road  
26 purposes, and (b) the United States, instrumentalities thereof, and  
27 county and city housing authorities created pursuant to chapter 35.82  
28 RCW in respect to labor and services rendered to their real property.  
29 Nothing contained in this or any other subsection of this definition  
30 shall be construed to modify any other definition of "consumer";

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

35 (6) Any person engaged in the business of constructing, repairing,  
36 decorating, or improving new or existing buildings or other structures  
37 under, upon, or above real property of or for the United States, any  
38 instrumentality thereof, or a county or city housing authority created  
39 pursuant to chapter 35.82 RCW, including the installing or attaching of

1 any article of tangible personal property therein or thereto, whether  
2 or not such personal property becomes a part of the realty by virtue of  
3 installation; also, any person engaged in the business of clearing land  
4 and moving earth of or for the United States, any instrumentality  
5 thereof, or a county or city housing authority created pursuant to  
6 chapter 35.82 RCW. Any such person shall be a consumer within the  
7 meaning of this subsection in respect to tangible personal property  
8 incorporated into, installed in, or attached to such building or other  
9 structure by such person;

10 (7) Any person who is a lessor of machinery and equipment, the  
11 rental of which is exempt from the tax imposed by RCW 82.08.020 under  
12 RCW 82.08.02565, with respect to the sale of or charge made for  
13 tangible personal property consumed in respect to repairing the  
14 machinery and equipment, if the tangible personal property has a useful  
15 life of less than one year; and

16 (8) Any person engaged in the business of cleaning up for the  
17 United States, or its instrumentalities, radioactive waste and other  
18 byproducts of weapons production and nuclear research and development.

19 Nothing contained in this or any other subsection of this  
20 definition shall be construed to modify any other definition of  
21 "consumer."

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

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

25 (1) Sales for resale by persons regularly engaged in the business  
26 of making sales of the type of property so sold to other persons  
27 similarly engaged in the business of selling such property where  
28 ~~((+1))~~: (a) The amount paid by the buyer does not exceed the amount  
29 paid by the seller to his vendor in the acquisition of the article; and  
30 ~~((+2))~~ (b) the sale is made as an accommodation to the buyer to enable  
31 him to fill a bona fide existing order of a customer or is made within  
32 fourteen days to reimburse in kind a previous accommodation sale by the  
33 buyer to the seller; ~~((nor to))~~

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

37 (3) Exchanges, deliveries, or transfers of electricity or the  
38 rights thereto by one party to another in which the second party

1 agrees, subject to the terms and conditions of the agreement, to  
2 deliver electricity at the same or another time, including, but not  
3 limited to:

4 (a) The exchange of electricity for electricity between businesses  
5 providing electrical service;

6 (b) The transmission or transfer of electricity by one business  
7 providing electrical service to another business providing electrical  
8 service under an agreement for coordination of operations among power  
9 systems of the Pacific Northwest;

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

12 (d) The residential exchange of electric power entered into between  
13 a business providing electrical service and the administrator of the  
14 Bonneville power administration.

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

17 (1) Any person rendering services taxable under RCW 82.04.290 and  
18 maintaining places of business both within and without this state which  
19 contribute to the rendition of such services shall, for the purpose of  
20 computing tax liability under RCW 82.04.290, apportion to this state  
21 that portion of his gross income which is derived from services  
22 rendered within this state. Where such apportionment cannot be  
23 accurately made by separate accounting methods, the taxpayer shall  
24 apportion to this state that proportion of his total income which the  
25 cost of doing business within the state bears to the total cost of  
26 doing business both within and without the state.

27 (2) Notwithstanding the provision of subsection (1) of this  
28 section, persons doing business both within and without the state who  
29 receive gross income from service charges, as defined in RCW 63.14.010  
30 (relating to amounts charged for granting the right or privilege to  
31 make deferred or installment payments) or who receive gross income from  
32 engaging in business as financial institutions within the scope of  
33 chapter 82.14A RCW (relating to city taxes on financial institutions)  
34 shall apportion or allocate gross income taxable under RCW 82.04.290 to  
35 this state pursuant to rules promulgated by the department consistent  
36 with uniform rules for apportionment or allocation developed by the  
37 states.

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

11 **PART II**

12 **STATE SALES AND USE TAXES**

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

15 For purposes of this chapter, "telecommunication service,"  
16 "electrical service," and "gas service," are defined as provided in  
17 chapter 82.04 RCW.

18 **Sec. 202.** RCW 82.08.020 and 1992 c 194 s 9 are each amended to  
19 read as follows:

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

25 (2) There is levied and there shall be collected an additional tax  
26 on each retail car rental, regardless of whether the vehicle is  
27 licensed in this state, equal to five and nine-tenths percent of the  
28 selling price. Ninety-one percent of the revenue collected under this  
29 subsection shall be deposited and distributed in the same manner as  
30 motor vehicle excise tax revenue collected under RCW 82.44.020(1).  
31 Nine percent of the revenue collected under this subsection shall be  
32 deposited in the transportation fund and distributed in the same manner  
33 as motor vehicle excise tax revenue collected under RCW 82.44.020(2).

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

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

3 **Sec. 203.** RCW 82.08.02565 and 1996 c 247 s 2 and 1996 c 173 s 3  
4 are each reenacted and amended to read as follows:

5 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
6 manufacturer or processor for hire of machinery and equipment used  
7 directly in a manufacturing operation or research and development  
8 operation, or to sales of or charges made for labor and services  
9 rendered in respect to installing, repairing, cleaning, altering, or  
10 improving the machinery and equipment, but only when the purchaser  
11 provides the seller with an exemption certificate in a form and manner  
12 prescribed by the department by rule, and the purchaser provides the  
13 department with a duplicate of the certificate or a summary of exempt  
14 sales as the department may require. The seller shall retain a copy of  
15 the certificate for the seller's files.

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

17 (a) "Machinery and equipment" means industrial fixtures, devices,  
18 and support facilities, and tangible personal property that becomes an  
19 ingredient or component thereof, including repair parts and replacement  
20 parts. "Machinery and equipment" includes pollution control equipment  
21 installed and used in a manufacturing operation or research and  
22 development operation to prevent air pollution, water pollution, or  
23 contamination that might otherwise result from the manufacturing  
24 operation or research and development operation.

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

26 (i) Hand tools;

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

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

30 (iv) Building fixtures that are not integral to the manufacturing  
31 operation or research and development operation that are permanently  
32 affixed to and become a physical part of a building, such as utility  
33 systems for heating, ventilation, air conditioning, communications,  
34 plumbing, or electrical.

35 (c) Machinery and equipment is "used directly" in a manufacturing  
36 operation or research and development operation if the machinery and  
37 equipment:

1 (i) Acts upon or interacts with an item of tangible personal  
2 property;

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

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

7 (iv) Provides physical support for or access to tangible personal  
8 property;

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

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

12 (vii) Places tangible personal property in the container, package,  
13 or wrapping in which the tangible personal property is normally sold or  
14 transported; or

15 (viii) Is integral to research and development as defined in RCW  
16 82.63.010.

17 (d) "Manufacturing operation" means the manufacturing of articles,  
18 substances, or commodities for sale as tangible personal property. The  
19 manufacturing operation begins at the point where the raw materials  
20 enter the manufacturing site and ends at the point where the finished  
21 product leaves the manufacturing site. The term ~~((also includes))~~ does  
22 not include the production of electricity, other than that portion of  
23 a cogeneration project that is used to generate power for consumption  
24 within the manufacturing site of which the cogeneration project is an  
25 integral part. The term does not include ~~((the production of~~  
26 ~~electricity by a light and power business as defined in RCW 82.16.010~~  
27 ~~or))~~ the preparation of food products on the premises of a person  
28 selling food products at retail.

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

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

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

36 ~~((1+))~~ The tax levied by RCW 82.08.020 shall not apply to sales  
37 of ~~((+)~~

1       ~~(a) Network telephone service, other than toll service, to~~  
2 ~~residential customers.~~

3       ~~(b) Network telephone)) telecommunication service which is paid for~~  
4 ~~by inserting coins in coin-operated ((telephones)) telecommunication~~  
5 ~~equipment.~~

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

7       ~~(a) "Network telephone service" has the meaning given in RCW~~  
8 ~~82.04.065.~~

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

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

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

15       For the purposes of this chapter:

16       (1)(a) "Value of the article used" shall mean the consideration,  
17 whether money, credit, rights, or other property except trade-in  
18 property of like kind, expressed in terms of money, paid or given or  
19 contracted to be paid or given by the purchaser to the seller for the  
20 article of tangible personal property or service, the use of which is  
21 taxable under this chapter. The term includes, in addition to the  
22 consideration paid or given or contracted to be paid or given, the  
23 amount of any tariff or duty paid with respect to the importation of  
24 the article used. In case the article used is acquired by lease or by  
25 gift or is extracted, produced, or manufactured by the person using the  
26 same or is sold under conditions wherein the purchase price does not  
27 represent the true value thereof, the value of the article used shall  
28 be determined as nearly as possible according to the retail selling  
29 price at place of use of similar products of like quality and character  
30 under such rules as the department of revenue may prescribe.

31       (b) In case the articles used are acquired by bailment, the value  
32 of the use of the articles so used shall be in an amount representing  
33 a reasonable rental for the use of the articles so bailed, determined  
34 as nearly as possible according to the value of such use at the places  
35 of use of similar products of like quality and character under such  
36 rules as the department of revenue may prescribe. In case any such  
37 articles of tangible personal property are used in respect to the  
38 construction, repairing, decorating, or improving of, and which become

1 or are to become an ingredient or component of, new or existing  
2 buildings or other structures under, upon, or above real property of or  
3 for the United States, any instrumentality thereof, or a county or city  
4 housing authority created pursuant to chapter 35.82 RCW, including the  
5 installing or attaching of any such articles therein or thereto,  
6 whether or not such personal property becomes a part of the realty by  
7 virtue of installation, then the value of the use of such articles so  
8 used shall be determined according to the retail selling price of such  
9 articles, or in the absence of such a selling price, as nearly as  
10 possible according to the retail selling price at place of use of  
11 similar products of like quality and character or, in the absence of  
12 either of these selling price measures, such value may be determined  
13 upon a cost basis, in any event under such rules as the department of  
14 revenue may prescribe.

15 (c) In the case of articles owned by a user engaged in business  
16 outside the state which are brought into the state for no more than one  
17 hundred eighty days in any period of three hundred sixty-five  
18 consecutive days and which are temporarily used for business purposes  
19 by the person in this state, the value of the article used shall be an  
20 amount representing a reasonable rental for the use of the articles,  
21 unless the person has paid tax under this chapter or chapter 82.08 RCW  
22 upon the full value of the article used, as defined in (a) of this  
23 subsection.

24 (d) In the case of articles manufactured or produced by the user  
25 and used in the manufacture or production of products sold or to be  
26 sold to the department of defense of the United States, the value of  
27 the articles used shall be determined according to the value of the  
28 ingredients of such articles.

29 (e) In the case of an article manufactured or produced for purposes  
30 of serving as a prototype for the development of a new or improved  
31 product, the value of the article used shall be determined by: (i) The  
32 retail selling price of such new or improved product when first offered  
33 for sale; or (ii) the value of materials incorporated into the  
34 prototype in cases in which the new or improved product is not offered  
35 for sale;

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

38 (a) With respect to tangible personal property, the first act  
39 within this state by which the taxpayer takes or assumes dominion or



1 control over the article of tangible personal property (as a consumer),  
2 and include installation, storage, withdrawal from storage, or any  
3 other act preparatory to subsequent actual use or consumption within  
4 this state; and

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

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

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

14 (5) The meaning ascribed to words and phrases in chapters 82.04 and  
15 82.08 RCW, insofar as applicable, shall have full force and effect with  
16 respect to taxes imposed under the provisions of this chapter.  
17 "Consumer," in addition to the meaning ascribed to it in chapters 82.04  
18 and 82.08 RCW insofar as applicable, shall also mean any person who  
19 distributes or displays, or causes to be distributed or displayed, any  
20 article of tangible personal property, except newspapers, the primary  
21 purpose of which is to promote the sale of products or services.

22 **Sec. 206.** RCW 82.12.020 and 1996 c 148 s 5 are each amended to  
23 read as follows:

24 (1) There is hereby levied and there shall be collected from every  
25 person in this state a tax or excise for the privilege of using within  
26 this state as a consumer any article of tangible personal property  
27 purchased at retail, or acquired by lease, gift, repossession, or  
28 bailment, or extracted or produced or manufactured by the person so  
29 using the same, or otherwise furnished to a person engaged in any  
30 business taxable under RCW 82.04.280 (2) or (7), or any amusement or  
31 recreation service defined as a retail sale in RCW 82.04.050(3)(a), or  
32 any telecommunication service, electrical service, or gas service  
33 defined as a retail sale in RCW 82.04.050(5).

34 (2) This tax shall apply to the use of every service defined as a  
35 retail sale in RCW 82.04.050(3)(a), every telecommunication service,  
36 electrical service, or gas service defined as a retail sale in RCW  
37 82.04.050(5), and the use of every article of tangible personal  
38 property, including property acquired at a casual or isolated sale, and

1 including byproducts used by the manufacturer thereof, except as  
2 hereinafter provided, irrespective of whether the article or similar  
3 articles are manufactured or are available for purchase within this  
4 state.

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

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

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

15 The tax levied by RCW 82.12.020 shall not apply in respect to the  
16 use of natural or manufactured gas that is ((taxable under RCW  
17 82.12.022)) provided as part of gas service defined as a retail sale in  
18 RCW 82.04.050(5).

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

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

29 **PART III**

30 **LOCAL SALES AND USE TAXES**

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

33 (1) The legislative authority of any county or city may impose a  
34 sales and use tax upon the sale or use of telecommunication services,  
35 electrical services, and gas services. In districts with legislative

1 authorities of four members or less, two-thirds of the members must  
2 approve an ordinance or resolution under this section. In districts  
3 with legislative authorities of more than four members, a majority plus  
4 one vote must approve an ordinance or resolution under this section.

5 (2) A tax imposed under this section shall be collected from those  
6 persons who are taxable by the state pursuant to chapters 82.08 and  
7 82.12 RCW, upon the occurrence of any taxable event within the county  
8 or city as the case may be. The rate of tax shall not exceed five and  
9 five-tenths percent of the selling price (in the case of a sales tax)  
10 or value of the service used (in the case of a use tax).

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

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

18 For purposes of this chapter:

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

22 (2) A retail sale consisting essentially of the performance of  
23 personal business or professional services shall be deemed to have  
24 occurred at the place at which such services were primarily performed,  
25 except that for the performance of a tow truck service, as defined in  
26 RCW 46.55.010, the retail sale shall be deemed to have occurred at the  
27 place of business of the operator of the tow truck service;

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

33 (4) A retail sale within the scope of the second paragraph of RCW  
34 82.04.050, and a retail sale of taxable personal property to be  
35 installed by the seller shall be deemed to have occurred at the place  
36 where the labor and services involved were primarily performed;

37 (5) A retail sale (~~consisting of the providing to a consumer of~~  
38 ~~telephone service, as defined in RCW 82.04.065, other than a sale of~~

1 ~~tangible personal property under subsection (1) of this section or a~~  
2 ~~rental of tangible personal property under subsection (3) of this~~  
3 ~~section,))~~ of telecommunication service shall be deemed to have  
4 occurred at the situs of the (~~telephone or other~~) instrument through  
5 which the (~~telephone~~) service is rendered;

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

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

10 (~~(7)~~) (8) The meaning ascribed to words and phrases in chapters  
11 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as  
12 applicable, shall have full force and effect with respect to taxes  
13 imposed under authority of this chapter;

14 (~~(8)~~) (9) "Taxable event" shall mean any retail sale, or any use  
15 of an article of tangible personal property or service, upon which a  
16 state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they  
17 now exist or may hereafter be amended: PROVIDED, HOWEVER, That the  
18 term shall not include a retail sale taxable pursuant to RCW 82.08.150,  
19 as now or hereafter amended;

20 (~~(9)~~) (10) "Treasurer or other legal depository" shall mean the  
21 treasurer or legal depository of a county or city.

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

24 (1) The governing body of any county or city while not required by  
25 legislative mandate to do so, may, by resolution or ordinance for the  
26 purposes authorized by this chapter, fix and impose a sales and use tax  
27 in accordance with the terms of this chapter. Such tax shall be  
28 collected from those persons who are taxable by the state pursuant to  
29 chapters 82.08 and 82.12 RCW, upon the occurrence of any taxable event  
30 within the county or city as the case may be: PROVIDED, That (~~except~~  
31 ~~as provided in RCW 82.14.230,~~) this sales and use tax shall not apply  
32 to (~~natural or manufactured gas~~) telecommunication service,  
33 electrical service, or gas service. The rate of such tax imposed by a  
34 county shall be five-tenths of one percent of the selling price (in the  
35 case of a sales tax) or value of the article used (in the case of a use  
36 tax). The rate of such tax imposed by a city shall not exceed five-  
37 tenths of one percent of the selling price (in the case of a sales tax)  
38 or value of the article used (in the case of a use tax): PROVIDED,

1 HOWEVER, That in the event a county shall impose a sales and use tax  
2 under this subsection, the rate of such tax imposed under this  
3 subsection by any city therein shall not exceed four hundred and  
4 twenty-five one-thousandths of one percent.

5 (2) Subject to the enactment into law of the 1982 amendment to RCW  
6 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in  
7 addition to the tax authorized in subsection (1) of this section, the  
8 governing body of any county or city may by resolution or ordinance  
9 impose an additional sales and use tax in accordance with the terms of  
10 this chapter. Such additional tax shall be collected upon the same  
11 taxable events upon which the tax imposed under subsection (1) of this  
12 section is levied. The rate of such additional tax imposed by a county  
13 shall be up to five-tenths of one percent of the selling price (in the  
14 case of a sales tax) or value of the article used (in the case of a use  
15 tax). The rate of such additional tax imposed by a city shall be up to  
16 five-tenths of one percent of the selling price (in the case of a sales  
17 tax) or value of the article used (in the case of a use tax): PROVIDED  
18 HOWEVER, That in the event a county shall impose a sales and use tax  
19 under this subsection at a rate equal to or greater than the rate  
20 imposed under this subsection by a city within the county, the county  
21 shall receive fifteen percent of the city tax: PROVIDED FURTHER, That  
22 in the event that the county shall impose a sales and use tax under  
23 this subsection at a rate which is less than the rate imposed under  
24 this subsection by a city within the county, the county shall receive  
25 that amount of revenues from the city tax equal to fifteen percent of  
26 the rate of tax imposed by the county under this subsection. The  
27 authority to impose a tax under this subsection is intended in part to  
28 compensate local government for any losses from the phase-out of the  
29 property tax on business inventories.

30 **PART IV**

31 **STATE PUBLIC UTILITY TAX**

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

34 For the purposes of this chapter, unless otherwise required by the  
35 context:

36 (1) "Railroad business" means the business of operating any  
37 railroad, by whatever power operated, for public use in the conveyance

1 of persons or property for hire. It shall not, however, include any  
2 business herein defined as an urban transportation business.

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

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

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

15 ~~(5) ("Light and power business" means the business of operating a  
16 plant or system for the generation, production or distribution of  
17 electrical energy for hire or sale and/or for the wheeling of  
18 electricity for others.~~

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

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

24 ~~(8))~~ "Motor transportation business" means the business (except  
25 urban transportation business) of operating any motor propelled vehicle  
26 by which persons or property of others are conveyed for hire, and  
27 includes, but is not limited to, the operation of any motor propelled  
28 vehicle as an auto transportation company (except urban transportation  
29 business), common carrier or contract carrier as defined by RCW  
30 81.68.010 and 81.80.010: PROVIDED, That "motor transportation  
31 business" shall not mean or include the transportation of logs or other  
32 forest products exclusively upon private roads or private highways.

33 ~~((9))~~ (6) "Urban transportation business" means the business of  
34 operating any vehicle for public use in the conveyance of persons or  
35 property for hire, insofar as (a) operating entirely within the  
36 corporate limits of any city or town, or within five miles of the  
37 corporate limits thereof, or (b) operating entirely within and between  
38 cities and towns whose corporate limits are not more than five miles  
39 apart or within five miles of the corporate limits of either thereof.

1 Included herein, but without limiting the scope hereof, is the business  
2 of operating passenger vehicles of every type and also the business of  
3 operating cartage, pickup, or delivery services, including in such  
4 services the collection and distribution of property arriving from or  
5 destined to a point within or without the state, whether or not such  
6 collection or distribution be made by the person performing a local or  
7 interstate line-haul of such property.

8 ~~((10))~~ (7) "Public service business" means any of the businesses  
9 defined in ~~((subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and~~  
10 ~~(9))~~ this section or any business subject to control by the state, or  
11 having the powers of eminent domain and the duties incident thereto, or  
12 any business hereafter declared by the legislature to be of a public  
13 service nature, except ~~((telephone business as defined in RCW~~  
14 ~~82.04.065))~~ telecommunication service, electrical service, or gas  
15 service and low-level radioactive waste site operating companies as  
16 redefined in RCW 81.04.010. It includes, among others, without  
17 limiting the scope hereof: Airplane transportation, boom, dock, ferry,  
18 pipe line, toll bridge, toll logging road, water transportation and  
19 wharf businesses.

20 ~~((11))~~ (8) "Tugboat business" means the business of operating  
21 tugboats, towboats, wharf boats or similar vessels in the towing or  
22 pushing of vessels, barges or rafts for hire.

23 ~~((12))~~ (9) "Gross income" means the value proceeding or accruing  
24 from the performance of the particular public service or transportation  
25 business involved, including operations incidental thereto, but without  
26 any deduction on account of the cost of the commodity furnished or  
27 sold, the cost of materials used, labor costs, interest, discount,  
28 delivery costs, taxes, or any other expense whatsoever paid or accrued  
29 and without any deduction on account of losses.

30 ~~((13))~~ (10) The meaning attributed, in chapter 82.04 RCW, to the  
31 term "tax year," "person," "value proceeding or accruing," "business,"  
32 "engaging in business," "in this state," "within this state," "cash  
33 discount," telecommunication service, "electrical service," "gas  
34 service," and "successor" shall apply equally in the provisions of this  
35 chapter.

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

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

6 (a) ~~Express((7)) and sewerage collection((7—and—telegraph))~~  
7 businesses: Three and six-tenths percent;

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

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

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

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

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

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

20 (2) An additional tax is imposed equal to the rate specified in RCW  
21 82.02.030 multiplied by the tax payable under subsection (1) of this  
22 section.

23 (3) Twenty percent of the moneys collected under subsection (1) of  
24 this section on water distribution businesses and sixty percent of the  
25 moneys collected under subsection (1) of this section on sewerage  
26 collection businesses shall be deposited in the public works assistance  
27 account created in RCW 43.155.050.

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

30 In computing tax there may be deducted from the gross income the  
31 following items:

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

37 (2) Amounts derived from the sale of commodities to persons in the  
38 same public service business as the seller, for resale as such within



1 this state. This deduction is allowed only with respect to water  
2 distribution(~~(, light and power, gas distribution)~~) or other public  
3 service businesses which furnish water(~~(, electrical energy, gas)~~) or  
4 any other commodity in the performance of public service businesses;

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

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

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

14 (6) Amounts derived from business which the state is prohibited  
15 from taxing under the Constitution of this state or the Constitution or  
16 laws of the United States;

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

19 (8) Amounts derived from the transportation of commodities from  
20 points of origin in this state to final destination outside this state,  
21 or from points of origin outside this state to final destination in  
22 this state, with respect to which the carrier grants to the shipper the  
23 privilege of stopping the shipment in transit at some point in this  
24 state for the purpose of storing, manufacturing, milling, or other  
25 processing, and thereafter forwards the same commodity, or its  
26 equivalent, in the same or converted form, under a through freight rate  
27 from point of origin to final destination; and amounts derived from the  
28 transportation of commodities from points of origin in the state to an  
29 export elevator, wharf, dock or ship side on tidewater or navigable  
30 tributaries thereto from which such commodities are forwarded, without  
31 intervening transportation, by vessel, in their original form, to  
32 interstate or foreign destinations: PROVIDED, That no deduction will  
33 be allowed when the point of origin and the point of delivery to such  
34 an export elevator, wharf, dock, or ship side are located within the  
35 corporate limits of the same city or town;

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



1 of making sales of telecommunication service, electrical service, or  
2 gas service, may continue to impose a license fee or tax upon those  
3 businesses at a rate not exceeding such rate imposed on July 1, 1997.

4 (ii) A city imposing a license fee or tax under this subsection  
5 (2)(b) shall allow a credit against such license fee or tax for the  
6 full amount of any sales or use tax imposed by the city or any other  
7 city or county under section 301 of this act upon the same taxable  
8 event. A credit under this subsection shall never reduce the license  
9 fee or tax to less than zero.

10 (iii) A license fee or tax imposed under this subsection (2)(b)  
11 shall expire six years after it is first imposed, unless extended for  
12 up to six years by referendum submitted to the voters of the city  
13 imposing the tax. A license fee or tax extended by referendum may be  
14 extended for additional periods, not exceeding six years each, by  
15 additional referenda.

16 (3) Cities which impose a license fee or tax upon business  
17 activities consisting of the making of retail sales ((of tangible  
18 personal property)), as defined in RCW 82.04.050, which are measured by  
19 gross receipts or gross income from such sales shall be required to  
20 submit an annual report to the state auditor identifying the rate  
21 established and the revenues received from each fee or tax. This  
22 section shall not apply to any business activities subject to the tax  
23 imposed by chapter 82.16 RCW. ((For purposes of this section, the  
24 providing to consumers of competitive telephone service, as defined in  
25 RCW 82.04.065, shall be deemed to be the retail sale of tangible  
26 personal property.))

27 (4) Any city which imposes license fees, franchise fees, taxes, or  
28 any combination thereof, on business activities consisting of providing  
29 cable service which are measured by gross receipts or gross income from  
30 sales, shall limit such fees or taxes so that the combined rate does  
31 not exceed eight percent on or after January 1, 2004.

32 (5) The definitions in this subsection apply throughout this  
33 section.

34 (a) "Telecommunication service," "electrical service," and "gas  
35 service," are defined as provided in chapter 82.04 RCW.

36 (b) "Cable service" means:

37 (i) The one-way transmission to subscribers of: (A) Video  
38 programming; or (B) other programming service; and

1        (ii) Subscriber interaction, if any, that is required for the  
2 selection or use of the video programming, or other programming  
3 service.

4        **Sec. 502.** RCW 35.21.714 and 1989 c 103 s 1 are each amended to  
5 read as follows:

6        Any city which imposes a license fee or tax upon the business  
7 activity of (~~engaging in the telephone business, as defined in RCW~~  
8 ~~82.04.065, which is measured by gross receipts or gross income~~) making  
9 sales of telecommunication service under RCW 35.21.710(2)(b) may impose  
10 the fee or tax, if it desires, on one hundred percent of the total  
11 gross revenue derived from intrastate toll telephone services subject  
12 to the fee or tax: PROVIDED, That the city shall not impose the fee or  
13 tax on that portion of (~~network telephone~~) telecommunication service,  
14 as defined in RCW 82.04.065, which represents charges to another  
15 telecommunications company, as defined in RCW 80.04.010, for connecting  
16 fees, switching charges, or carrier access charges relating to  
17 intrastate toll telephone services, or for access to, or charges for,  
18 interstate services, or charges for (~~network—telephone~~)  
19 telecommunication service that is purchased for the purpose of resale.

20        **Sec. 503.** RCW 35.21.715 and 1989 c 103 s 2 are each amended to  
21 read as follows:

22        Notwithstanding RCW 35.21.714 or 35A.82.060, any city or town which  
23 imposes a tax upon business activities measured by gross receipts or  
24 gross income from sales under RCW 35.21.710(2)(b), may impose such tax  
25 on that portion of (~~network telephone~~) telecommunication service, as  
26 defined in RCW 82.04.065, which represents charges to another  
27 telecommunications company, as defined in RCW 80.04.010, for connecting  
28 fees, switching charges, or carrier access charges relating to  
29 intrastate toll services, or charges for (~~network—telephone~~)  
30 telecommunication service that is purchased for the purpose of resale.  
31 Such tax shall be levied at the same rate as is applicable to (~~other~~  
32 ~~competitive telephone service as defined in RCW 82.04.065~~) businesses  
33 under RCW 35.21.710(1).

34        **Sec. 504.** RCW 35.21.860 and 1983 2nd ex.s. c 3 s 39 are each  
35 amended to read as follows:

1 (1) No city or town may impose a franchise fee or any other fee or  
2 charge of whatever nature or description upon (~~the light and power, or~~  
3 ~~gas distribution businesses, as defined in RCW 82.16.010, or telephone~~  
4 ~~business, as defined in RCW 82.04.065~~) businesses providing  
5 telecommunication service, electrical service, or gas service, as  
6 defined in chapter 82.04 RCW, except that (~~(a) a tax authorized by RCW~~  
7 ~~35.21.865 may be imposed and (b)~~) a fee may be charged to such  
8 businesses that recovers actual administrative expenses incurred by a  
9 city or town that are directly related to receiving and approving a  
10 permit, license, and franchise, to inspecting plans and construction,  
11 or to the preparation of a detailed statement pursuant to chapter  
12 43.21C RCW.

13 (2) Subsection (1) of this section does not prohibit franchise fees  
14 imposed on (~~an electrical energy, natural gas, or telephone business~~)  
15 businesses providing telecommunication service, electrical service, or  
16 gas service, as defined in chapter 82.04 RCW, by contract existing on  
17 April 20, 1982, with a city or town, for the duration of the contract,  
18 but (~~the franchise fees shall be considered taxes for the purposes of~~  
19 ~~the limitations established in RCW 35.21.865 and 35.21.870~~) to the  
20 extent the fees exceed the costs allowable under subsection (1) of this  
21 section, the combined rate of a franchise fee, a tax under section 301  
22 of this act, and a tax under RCW 35.21.710(2) imposed by the city shall  
23 not exceed the greater of: (a) The total rate of franchise fee and  
24 license fee or tax imposed by the city upon businesses providing  
25 telecommunication service, electrical service, or gas service, as  
26 defined in chapter 82.04 RCW, on July 1, 1997; or (b) five and seven-  
27 tenths percent.

28 **Sec. 505.** RCW 35A.82.050 and 1983 2nd ex.s. c 3 s 34 are each  
29 amended to read as follows:

30 (1) Except as provided in subsection (2) of this section, any code  
31 city which imposes a license fee or tax upon business activities  
32 consisting of the making of retail sales (~~of tangible personal~~  
33 property)), as defined in RCW 82.04.050, which are measured by gross  
34 receipts or gross income from such sales, shall impose such tax at a  
35 single uniform rate upon all such business activities. This section  
36 shall not apply to any business activities subject to the tax imposed  
37 by chapter 82.16 RCW. (~~For purposes of this section, the providing to~~  
38 consumers of competitive telephone service, as defined in RCW

1 82.04.065, shall be deemed to be the retail sale of tangible personal  
2 property.))

3 (2) Any code city which imposes a license fee or tax upon the  
4 businesses of making sales of telecommunication service, electrical  
5 service, or gas service, as defined in RCW 82.04.050, is subject to RCW  
6 35.21.710 (2) and (4).

7 **Sec. 506.** RCW 35A.82.060 and 1989 c 103 s 3 are each amended to  
8 read as follows:

9 Any code city which imposes a license fee or tax upon the business  
10 activity of ~~((engaging in the telephone business, as defined in RCW~~  
11 ~~82.04.065, which is measured by gross receipts or gross income))~~ making  
12 sales of telecommunication service under RCW 35.21.710(2)(b) may impose  
13 the fee or tax, if it desires, on one hundred percent of the total  
14 gross revenue derived from intrastate toll ~~((telephone))~~  
15 telecommunication services subject to the fee or tax: PROVIDED, That  
16 the city shall not impose the fee or tax on that portion of ~~((network~~  
17 ~~telephone))~~ telecommunication service, as defined in RCW 82.04.065,  
18 which represents charges to another telecommunications company, as  
19 defined in RCW 80.04.010, for connecting fees, switching charges, or  
20 carrier access charges relating to intrastate toll ~~((telephone))~~  
21 telecommunication services, or for access to, or charges for,  
22 interstate services, or charges for ~~((network—telephone))~~  
23 telecommunication service that is purchased for the purpose of resale.

24 **Sec. 507.** RCW 35A.82.065 and 1989 c 103 s 4 are each amended to  
25 read as follows:

26 Notwithstanding RCW 35.21.714 or 35A.82.060, any city or town which  
27 imposes a tax upon business activities measured by gross receipts or  
28 gross income from sales under RCW 35.21.710(2)(b), may impose such tax  
29 on that portion of ~~((network telephone))~~ telecommunication service, as  
30 defined in RCW 82.04.065, which represents charges to another  
31 telecommunications company, as defined in RCW 80.04.010, for connecting  
32 fees, switching charges, or carrier access charges relating to  
33 intrastate toll services, or charges for ~~((network—telephone))~~  
34 telecommunication service that is purchased for the purpose of resale.  
35 Such tax shall be levied at the same rate as is applicable to ~~((other~~  
36 ~~competitive telephone service as defined in RCW 82.04.065))~~ businesses  
37 under RCW 35A.82.050(1).



1 (g) One person representing counties, appointed by the president of  
2 the senate and the speaker of the house of representatives.

3 (3) When making appointments under subsection (2)(f) and (g) of  
4 this section, the president of the senate and speaker of the house of  
5 representatives shall consider nominations made by the association of  
6 Washington cities and the Washington state association of counties, as  
7 appropriate.

8 (4) The president of the senate and the speaker of the house of  
9 representatives shall designate cochair of the committee. The  
10 expenses of the committee members shall be reimbursed under chapters  
11 43.03 and 44.04 RCW. Staff support for the committee shall be provided  
12 by senate committee services and house of representatives office of  
13 program research as mutually agreed by the cochair of the joint select  
14 committee. The committee may also use the research services provided  
15 to the legislature by the department of revenue under RCW 82.01.060(4).

16 NEW SECTION. **Sec. 602.** The following acts or parts of acts are  
17 each repealed:

- 18 (1) RCW 35.21.711 and 1982 1st ex.s. c 49 s 8;
- 19 (2) RCW 35.21.712 and 1983 2nd ex.s. c 3 s 35 & 1981 c 144 s 8;
- 20 (3) RCW 35.21.865 and 1983 c 99 s 4 & 1982 1st ex.s. c 49 s 3;
- 21 (4) RCW 35.21.870 and 1984 c 225 s 6, 1983 c 99 s 5, & 1982 1st  
22 ex.s. c 49 s 4;
- 23 (5) RCW 35.21.871 and 1986 c 70 s 3;
- 24 (6) RCW 35A.82.055 and 1983 2nd ex.s. c 3 s 36 & 1981 c 144 s 9;
- 25 (7) RCW 35A.82.070 and 1986 c 70 s 6;
- 26 (8) RCW 82.08.026 and 1994 c 124 s 8 & 1989 c 384 s 4;
- 27 (9) RCW 82.12.022 and 1994 c 124 s 9 & 1989 c 384 s 3;
- 28 (10) RCW 82.14.230 and 1989 c 384 s 2;
- 29 (11) RCW 82.16.053 and 1996 c 145 s 1 & 1994 c 236 s 1; and
- 30 (12) RCW 82.16.090 and 1988 c 228 s 1.

31 NEW SECTION. **Sec. 603.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected.

35 NEW SECTION. **Sec. 604.** Part headings used in this act are not any  
36 part of the law.



1      NEW SECTION.    **Sec. 605.**    This act takes effect January 1, 1999.

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