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HOUSE BILL 1095

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State of Washington

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**By** Representatives Walen, Boehnke, Ryu, Leavitt, Corry, Wicks, Tharinger, Ortiz-Self, Callan, Graham, Fey, Frame, Stokesbary, Orwall, Rule, Bergquist, and Pollet; by request of Department of Revenue

Prefiled 01/06/21. Read first time 01/11/21. Referred to Committee on Finance.

1 AN ACT Relating to the taxation of governmental financial  
2 assistance programs addressing the impacts of conditions giving rise  
3 to a gubernatorial or presidential emergency proclamation by creating  
4 state business and occupation tax and state public utility tax  
5 exemptions, a sales and use tax exemption for the receipt of such  
6 financial assistance, and clarifying the sales and use tax  
7 obligations for goods and services purchased by recipients of such  
8 financial assistance; amending RCW 82.04.050; amending 2020 c 80 s 62  
9 (uncodified); adding a new section to chapter 82.04 RCW; adding a new  
10 section to chapter 82.16 RCW; adding a new section to chapter 82.08  
11 RCW; creating a new section; repealing 2020 c 80 s 58; and declaring  
12 an emergency.

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

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04  
15 RCW to read as follows:

16 (1) This chapter does not apply to any person with respect to the  
17 value proceeding or accruing from a qualifying grant received on or  
18 after February 29, 2020.

19 (2) For purposes of this section, "qualifying grant" means an  
20 amount received, or relief from debt or other legal obligation  
21 received, that:

1 (a) Is received under a government-funded program either directly  
2 from a government entity, or through a nongovernmental third-party  
3 entity authorized by a government entity to distribute the program  
4 funds, or, in the case of relief from debt or other legal obligation,  
5 is received from a private entity under circumstances where, in  
6 exchange for providing the relief, the private entity receives some  
7 form of direct financial benefit from a government entity;

8 (b) Is provided to address the impacts of conditions giving rise  
9 to an official proclamation of a national emergency by the president  
10 of the United States or an official proclamation of a state of  
11 emergency by the governor of this state; and

12 (c) Is not an amount received:

13 (i) Under a contract, including a sole source contract, for the  
14 acquisition of specific goods or services, or both, by purchase,  
15 lease, or barter, that was solicited and established in accordance  
16 with procurement laws or regulations; or

17 (ii) For manufacturing, extracting, or making sales of products,  
18 when the amount received is determined based on the quantity of  
19 products manufactured, extracted, or sold. For purposes of this  
20 subsection (2)(c)(ii), "products" has the same meaning as in RCW  
21 82.32.023.

22 (3) For purposes of a grant awarded to address the impacts of  
23 conditions giving rise to a national emergency or state of emergency,  
24 the exemption under this section applies only if the legislation  
25 authorizing the grant or the associated legislative history, public  
26 records created by the grantor, or the terms of the underlying grant  
27 agreement between the grantor and grantee, clearly indicate that the  
28 grant was established to address the impacts of conditions giving  
29 rise to a national emergency or state of emergency.

30 (4) For purposes of this section, "government" means any  
31 national, tribal, state, or local government.

32 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16  
33 RCW to read as follows:

34 (1) This chapter does not apply to any person with respect to the  
35 value proceeding or accruing from a qualifying grant received on or  
36 after February 29, 2020.

37 (2) For purposes of this section, "qualifying grant" means an  
38 amount received, or relief from debt or other legal obligation  
39 received, that:

1 (a) Is received under a government-funded program either directly  
2 from a government entity, or through a nongovernmental third-party  
3 entity authorized by a government entity to distribute the program  
4 funds, or, in the case of relief from debt or other legal obligation,  
5 is received from a private entity under circumstances where, in  
6 exchange for providing the relief, the private entity receives some  
7 form of direct financial benefit from a government entity;

8 (b) Is provided to address the impacts of conditions giving rise  
9 to an official proclamation of a national emergency by the president  
10 of the United States or an official proclamation of a state of  
11 emergency by the governor of this state; and

12 (c) Is not an amount received:

13 (i) Under a contract, including a sole source contract, for the  
14 acquisition of specific goods or services, or both, by purchase,  
15 lease, or barter, that was solicited and established in accordance  
16 with procurement laws or regulations; or

17 (ii) When the amount received or accrued during a tax reporting  
18 period is determined based on the amount of business actually  
19 conducted during that tax reporting period, such as the quantity,  
20 volume, or weight of products sold or transported, or the number of  
21 passengers transported. For purposes of this subsection (2)(c)(ii),  
22 "products" has the same meaning as in RCW 82.32.023 and includes  
23 electrical energy, water, natural gas, manufactured gas, and  
24 transporting persons or property.

25 (3) For purposes of a grant awarded to address the impacts of  
26 conditions giving rise to a national emergency or state of emergency,  
27 the exemption under this section applies only if the legislation  
28 authorizing the grant or the associated legislative history, public  
29 records created by the grantor, or the terms of the underlying grant  
30 agreement between the grantor and grantee, clearly indicate that the  
31 grant was established to address the impacts of conditions giving  
32 rise to a national emergency or state of emergency.

33 (4) For purposes of this section, "government" means any  
34 national, tribal, state, or local government.

35 **Sec. 3.** RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each  
36 amended to read as follows:

37 (1)(a) "Sale at retail" or "retail sale" means every sale of  
38 tangible personal property (including articles produced, fabricated,  
39 or imprinted) to all persons irrespective of the nature of their

1 business and including, among others, without limiting the scope  
2 hereof, persons who install, repair, clean, alter, improve,  
3 construct, or decorate real or personal property of or for consumers  
4 other than a sale to a person who:

5 (i) Purchases for the purpose of resale as tangible personal  
6 property in the regular course of business without intervening use by  
7 such person, but a purchase for the purpose of resale by a regional  
8 transit authority under RCW 81.112.300 is not a sale for resale; or

9 (ii) Installs, repairs, cleans, alters, imprints, improves,  
10 constructs, or decorates real or personal property of or for  
11 consumers, if such tangible personal property becomes an ingredient  
12 or component of such real or personal property without intervening  
13 use by such person; or

14 (iii) Purchases for the purpose of consuming the property  
15 purchased in producing for sale as a new article of tangible personal  
16 property or substance, of which such property becomes an ingredient  
17 or component or is a chemical used in processing, when the primary  
18 purpose of such chemical is to create a chemical reaction directly  
19 through contact with an ingredient of a new article being produced  
20 for sale; or

21 (iv) Purchases for the purpose of consuming the property  
22 purchased in producing ferrosilicon which is subsequently used in  
23 producing magnesium for sale, if the primary purpose of such property  
24 is to create a chemical reaction directly through contact with an  
25 ingredient of ferrosilicon; or

26 (v) Purchases for the purpose of providing the property to  
27 consumers as part of competitive telephone service, as defined in RCW  
28 82.04.065; or

29 (vi) Purchases for the purpose of satisfying the person's  
30 obligations under an extended warranty as defined in subsection (7)  
31 of this section, if such tangible personal property replaces or  
32 becomes an ingredient or component of property covered by the  
33 extended warranty without intervening use by such person.

34 (b) The term includes every sale of tangible personal property  
35 that is used or consumed or to be used or consumed in the performance  
36 of any activity defined as a "sale at retail" or "retail sale" even  
37 though such property is resold or used as provided in (a)(i) through  
38 (vi) of this subsection following such use.

1 (c) The term also means every sale of tangible personal property  
2 to persons engaged in any business that is taxable under RCW  
3 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

4 (2) The term "sale at retail" or "retail sale" includes the sale  
5 of or charge made for tangible personal property consumed and/or for  
6 labor and services rendered in respect to the following:

7 (a) The installing, repairing, cleaning, altering, imprinting, or  
8 improving of tangible personal property of or for consumers,  
9 including charges made for the mere use of facilities in respect  
10 thereto, but excluding charges made for the use of self-service  
11 laundry facilities, and also excluding sales of laundry service to  
12 nonprofit health care facilities, and excluding services rendered in  
13 respect to live animals, birds and insects;

14 (b) The constructing, repairing, decorating, or improving of new  
15 or existing buildings or other structures under, upon, or above real  
16 property of or for consumers, including the installing or attaching  
17 of any article of tangible personal property therein or thereto,  
18 whether or not such personal property becomes a part of the realty by  
19 virtue of installation, and also includes the sale of services or  
20 charges made for the clearing of land and the moving of earth  
21 excepting the mere leveling of land used in commercial farming or  
22 agriculture;

23 (c) The constructing, repairing, or improving of any structure  
24 upon, above, or under any real property owned by an owner who conveys  
25 the property by title, possession, or any other means to the person  
26 performing such construction, repair, or improvement for the purpose  
27 of performing such construction, repair, or improvement and the  
28 property is then reconveyed by title, possession, or any other means  
29 to the original owner;

30 (d) The cleaning, fumigating, razing, or moving of existing  
31 buildings or structures, but does not include the charge made for  
32 janitorial services; and for purposes of this section the term  
33 "janitorial services" means those cleaning and caretaking services  
34 ordinarily performed by commercial janitor service businesses  
35 including, but not limited to, wall and window washing, floor  
36 cleaning and waxing, and the cleaning in place of rugs, drapes and  
37 upholstery. The term "janitorial services" does not include painting,  
38 papering, repairing, furnace or septic tank cleaning, snow removal or  
39 sandblasting;

1 (e) Automobile towing and similar automotive transportation  
2 services, but not in respect to those required to report and pay  
3 taxes under chapter 82.16 RCW;

4 (f) The furnishing of lodging and all other services by a hotel,  
5 rooming house, tourist court, motel, trailer camp, and the granting  
6 of any similar license to use real property, as distinguished from  
7 the renting or leasing of real property, and it is presumed that the  
8 occupancy of real property for a continuous period of one month or  
9 more constitutes a rental or lease of real property and not a mere  
10 license to use or enjoy the same. For the purposes of this  
11 subsection, it is presumed that the sale of and charge made for the  
12 furnishing of lodging for a continuous period of one month or more to  
13 a person is a rental or lease of real property and not a mere license  
14 to enjoy the same;

15 (g) The installing, repairing, altering, or improving of digital  
16 goods for consumers;

17 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)  
18 of this subsection when such sales or charges are for property, labor  
19 and services which are used or consumed in whole or in part by such  
20 persons in the performance of any activity defined as a "sale at  
21 retail" or "retail sale" even though such property, labor and  
22 services may be resold after such use or consumption. Nothing  
23 contained in this subsection may be construed to modify subsection  
24 (1) of this section and nothing contained in subsection (1) of this  
25 section may be construed to modify this subsection.

26 (3) The term "sale at retail" or "retail sale" includes the sale  
27 of or charge made for personal, business, or professional services  
28 including amounts designated as interest, rents, fees, admission, and  
29 other service emoluments however designated, received by persons  
30 engaging in the following business activities:

31 (a) Abstract, title insurance, and escrow services;

32 (b) Credit bureau services;

33 (c) Automobile parking and storage garage services;

34 (d) Landscape maintenance and horticultural services but  
35 excluding (i) horticultural services provided to farmers and (ii)  
36 pruning, trimming, repairing, removing, and clearing of trees and  
37 brush near electric transmission or distribution lines or equipment,  
38 if performed by or at the direction of an electric utility;

39 (e) Service charges associated with tickets to professional  
40 sporting events;

1 (f) The following personal services: Tanning salon services,  
2 tattoo parlor services, steam bath services, turkish bath services,  
3 escort services, and dating services; and

4 (g)(i) Operating an athletic or fitness facility, including all  
5 charges for the use of such a facility or for any associated services  
6 and amenities, except as provided in (g)(ii) of this subsection.

7 (ii) Notwithstanding anything to the contrary in (g)(i) of this  
8 subsection (3), the term "sale at retail" and "retail sale" under  
9 this subsection does not include:

10 (A) Separately stated charges for the use of an athletic or  
11 fitness facility where such use is primarily for a purpose other than  
12 engaging in or receiving instruction in a physical fitness activity;

13 (B) Separately stated charges for the use of a discrete portion  
14 of an athletic or fitness facility, other than a pool, where such  
15 discrete portion of the facility does not by itself meet the  
16 definition of "athletic or fitness facility" in this subsection;

17 (C) Separately stated charges for services, such as advertising,  
18 massage, nutritional consulting, and body composition testing, that  
19 do not require the customer to engage in physical fitness activities  
20 to receive the service. The exclusion in this subsection  
21 (3)(g)(ii)(C) does not apply to personal training services and  
22 instruction in a physical fitness activity;

23 (D) Separately stated charges for physical therapy provided by a  
24 physical therapist, as those terms are defined in RCW 18.74.010, or  
25 occupational therapy provided by an occupational therapy  
26 practitioner, as those terms are defined in RCW 18.59.020, when  
27 performed pursuant to a referral from an authorized health care  
28 practitioner or in consultation with an authorized health care  
29 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an  
30 authorized health care practitioner means a health care practitioner  
31 licensed under chapter 18.83, 18.25, 18.36A, 18.57, (~~18.57A,~~)  
32 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

33 (E) Rent or association fees charged by a landlord or residential  
34 association to a tenant or residential owner with access to an  
35 athletic or fitness facility maintained by the landlord or  
36 residential association, unless the rent or fee varies depending on  
37 whether the tenant or owner has access to the facility;

38 (F) Services provided in the regular course of employment by an  
39 employee with access to an athletic or fitness facility maintained by

1 the employer for use without charge by its employees or their family  
2 members;

3 (G) The provision of access to an athletic or fitness facility by  
4 an educational institution to its students and staff. However,  
5 charges made by an educational institution to its alumni or other  
6 members of the public for the use of any of the educational  
7 institution's athletic or fitness facilities are a retail sale under  
8 this subsection (3)(g). For purposes of this subsection  
9 (3)(g)(ii)(G), "educational institution" has the same meaning as in  
10 RCW 82.04.170;

11 (H) Yoga, chi gong, or martial arts classes, training, or events  
12 held at a community center, park, school gymnasium, college or  
13 university, hospital or other medical facility, private residence, or  
14 any other facility that is not operated within and as part of an  
15 athletic or fitness facility.

16 (iii) Nothing in (g)(ii) of this subsection (3) may be construed  
17 to affect the taxation of sales made by the operator of an athletic  
18 or fitness facility, where such sales are defined as a retail sale  
19 under any provision of this section other than this subsection (3).

20 (iv) For the purposes of this subsection (3)(g), the following  
21 definitions apply:

22 (A) "Athletic or fitness facility" means an indoor or outdoor  
23 facility or portion of a facility that is primarily used for:  
24 Exercise classes; strength and conditioning programs; personal  
25 training services; tennis, racquetball, handball, squash, or  
26 pickleball; or other activities requiring the use of exercise or  
27 strength training equipment, such as treadmills, elliptical machines,  
28 stair climbers, stationary cycles, rowing machines, pilates  
29 equipment, balls, climbing ropes, jump ropes, and weightlifting  
30 equipment.

31 (B) "Martial arts" means any of the various systems of training  
32 for physical combat or self-defense. "Martial arts" includes, but is  
33 not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing,  
34 kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido,  
35 Kendo, tai chi, and mixed martial arts.

36 (C) "Physical fitness activities" means activities that involve  
37 physical exertion for the purpose of improving or maintaining the  
38 general fitness, strength, flexibility, conditioning, or health of  
39 the participant. "Physical fitness activities" includes participating  
40 in yoga, chi gong, or martial arts.



1 (4) (a) The term also includes the renting or leasing of tangible  
2 personal property to consumers.

3 (b) The term does not include the renting or leasing of tangible  
4 personal property where the lease or rental is for the purpose of  
5 sublease or subrent.

6 (5) The term also includes the providing of "competitive  
7 telephone service," "telecommunications service," or "ancillary  
8 services," as those terms are defined in RCW 82.04.065, to consumers.

9 (6) (a) The term also includes the sale of prewritten computer  
10 software to a consumer, regardless of the method of delivery to the  
11 end user. For purposes of (a) and (b) of this subsection, the sale of  
12 prewritten computer software includes the sale of or charge made for  
13 a key or an enabling or activation code, where the key or code is  
14 required to activate prewritten computer software and put the  
15 software into use. There is no separate sale of the key or code from  
16 the prewritten computer software, regardless of how the sale may be  
17 characterized by the vendor or by the purchaser.

18 (b) The term "retail sale" does not include the sale of or charge  
19 made for:

20 (i) Custom software; or

21 (ii) The customization of prewritten computer software.

22 (c) (i) The term also includes the charge made to consumers for  
23 the right to access and use prewritten computer software, where  
24 possession of the software is maintained by the seller or a third  
25 party, regardless of whether the charge for the service is on a per  
26 use, per user, per license, subscription, or some other basis.

27 (ii) (A) The service described in (c) (i) of this subsection (6)  
28 includes the right to access and use prewritten computer software to  
29 perform data processing.

30 (B) For purposes of this subsection (6) (c) (ii), "data processing"  
31 means the systematic performance of operations on data to extract the  
32 required information in an appropriate form or to convert the data to  
33 usable information. Data processing includes check processing, image  
34 processing, form processing, survey processing, payroll processing,  
35 claim processing, and similar activities.

36 (7) The term also includes the sale of or charge made for an  
37 extended warranty to a consumer. For purposes of this subsection,  
38 "extended warranty" means an agreement for a specified duration to  
39 perform the replacement or repair of tangible personal property at no  
40 additional charge or a reduced charge for tangible personal property,

1 labor, or both, or to provide indemnification for the replacement or  
2 repair of tangible personal property, based on the occurrence of  
3 specified events. The term "extended warranty" does not include an  
4 agreement, otherwise meeting the definition of extended warranty in  
5 this subsection, if no separate charge is made for the agreement and  
6 the value of the agreement is included in the sales price of the  
7 tangible personal property covered by the agreement. For purposes of  
8 this subsection, "sales price" has the same meaning as in RCW  
9 82.08.010.

10 (8) (a) The term also includes the following sales to consumers of  
11 digital goods, digital codes, and digital automated services:

12 (i) Sales in which the seller has granted the purchaser the right  
13 of permanent use;

14 (ii) Sales in which the seller has granted the purchaser a right  
15 of use that is less than permanent;

16 (iii) Sales in which the purchaser is not obligated to make  
17 continued payment as a condition of the sale; and

18 (iv) Sales in which the purchaser is obligated to make continued  
19 payment as a condition of the sale.

20 (b) A retail sale of digital goods, digital codes, or digital  
21 automated services under this subsection (8) includes any services  
22 provided by the seller exclusively in connection with the digital  
23 goods, digital codes, or digital automated services, whether or not a  
24 separate charge is made for such services.

25 (c) For purposes of this subsection, "permanent" means perpetual  
26 or for an indefinite or unspecified length of time. A right of  
27 permanent use is presumed to have been granted unless the agreement  
28 between the seller and the purchaser specifies or the circumstances  
29 surrounding the transaction suggest or indicate that the right to use  
30 terminates on the occurrence of a condition subsequent.

31 (9) The term also includes the charge made for providing tangible  
32 personal property along with an operator for a fixed or indeterminate  
33 period of time. A consideration of this is that the operator is  
34 necessary for the tangible personal property to perform as designed.  
35 For the purpose of this subsection (9), an operator must do more than  
36 maintain, inspect, or set up the tangible personal property.

37 (10) The term does not include the sale of or charge made for  
38 labor and services rendered in respect to the building, repairing, or  
39 improving of any street, place, road, highway, easement, right-of-  
40 way, mass public transportation terminal or parking facility, bridge,

1 tunnel, or trestle which is owned by a municipal corporation or  
2 political subdivision of the state or by the United States and which  
3 is used or to be used primarily for foot or vehicular traffic  
4 including mass transportation vehicles of any kind.

5 (11) The term also does not include sales of chemical sprays or  
6 washes to persons for the purpose of postharvest treatment of fruit  
7 for the prevention of scald, fungus, mold, or decay, nor does it  
8 include sales of feed, seed, seedlings, fertilizer, agents for  
9 enhanced pollination including insects such as bees, and spray  
10 materials to: (a) Persons who participate in the federal conservation  
11 reserve program, the environmental quality incentives program, the  
12 wetlands reserve program, and the wildlife habitat incentives  
13 program, or their successors administered by the United States  
14 department of agriculture; (b) farmers for the purpose of producing  
15 for sale any agricultural product; (c) farmers for the purpose of  
16 providing bee pollination services; and (d) farmers acting under  
17 cooperative habitat development or access contracts with an  
18 organization exempt from federal income tax under 26 U.S.C. Sec.  
19 501(c)(3) of the federal internal revenue code or the Washington  
20 state department of fish and wildlife to produce or improve wildlife  
21 habitat on land that the farmer owns or leases.

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

38 (13) The term does not include the sale of or charge made for  
39 labor, services, or tangible personal property pursuant to agreements  
40 providing maintenance services for bus, rail, or rail fixed guideway

1 equipment when a regional transit authority is the recipient of the  
2 labor, services, or tangible personal property, and a transit agency,  
3 as defined in RCW 81.104.015, performs the labor or services.

4 (14) The term does not include the sale for resale of any service  
5 described in this section if the sale would otherwise constitute a  
6 "sale at retail" and "retail sale" under this section.

7 (15)(a) The term "sale at retail" or "retail sale" includes  
8 amounts charged, however labeled, to consumers to engage in any of  
9 the activities listed in this subsection (15)(a), including the  
10 furnishing of any associated equipment or, except as otherwise  
11 provided in this subsection, providing instruction in such  
12 activities, where such charges are not otherwise defined as a "sale  
13 at retail" or "retail sale" in this section:

14 (i)(A) Golf, including any variant in which either golf balls or  
15 golf clubs are used, such as miniature golf, hitting golf balls at a  
16 driving range, and golf simulators, and including fees charged by a  
17 golf course to a player for using his or her own cart. However,  
18 charges for golf instruction are not a retail sale, provided that if  
19 the instruction involves the use of a golfing facility that would  
20 otherwise require the payment of a fee, such as green fees or driving  
21 range fees, such fees, including the applicable retail sales tax,  
22 must be separately identified and charged by the golfing facility  
23 operator to the instructor or the person receiving the instruction.

24 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except  
25 as otherwise provided in this subsection (15)(a)(i)(B), the term  
26 "sale at retail" or "retail sale" does not include amounts charged to  
27 participate in, or conduct, a golf tournament or other competitive  
28 event. However, amounts paid by event participants to the golf  
29 facility operator are retail sales under this subsection (15)(a)(i).  
30 Likewise, amounts paid by the event organizer to the golf facility  
31 are retail sales under this subsection (15)(a)(i), if such amounts  
32 vary based on the number of event participants;

33 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,  
34 paragliding, parasailing, and similar activities;

35 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,  
36 ping pong, and similar games;

37 (iv) Access to amusement park, theme park, and water park  
38 facilities, including but not limited to charges for admission and  
39 locker or cabana rentals. Discrete charges for rides or other  
40 attractions or entertainment that are in addition to the charge for

1 admission are not a retail sale under this subsection (15)(a)(iv).  
2 For the purposes of this subsection, an amusement park or theme park  
3 is a location that provides permanently affixed amusement rides,  
4 games, and other entertainment, but does not include parks or zoos  
5 for which the primary purpose is the exhibition of wildlife, or  
6 fairs, carnivals, and festivals as defined in (b)(i) of this  
7 subsection;

8 (v) Batting cage activities;

9 (vi) Bowling, but not including competitive events, except that  
10 amounts paid by the event participants to the bowling alley operator  
11 are retail sales under this subsection (15)(a)(vi). Likewise, amounts  
12 paid by the event organizer to the operator of the bowling alley are  
13 retail sales under this subsection (15)(a)(vi), if such amounts vary  
14 based on the number of event participants;

15 (vii) Climbing on artificial climbing structures, whether indoors  
16 or outdoors;

17 (viii) Day trips for sightseeing purposes;

18 (ix) Bungee jumping, zip lining, and riding inside a ball,  
19 whether inflatable or otherwise;

20 (x) Horseback riding offered to the public, where the seller  
21 furnishes the horse to the buyer and providing instruction is not the  
22 primary focus of the activity, including guided rides, but not  
23 including therapeutic horseback riding provided by an instructor  
24 certified by a nonprofit organization that offers national or  
25 international certification for therapeutic riding instructors;

26 (xi) Fishing, including providing access to private fishing areas  
27 and charter or guided fishing, except that fishing contests and  
28 license fees imposed by a government entity are not a retail sale  
29 under this subsection;

30 (xii) Guided hunting and hunting at game farms and shooting  
31 preserves, except that hunting contests and license fees imposed by a  
32 government entity are not a retail sale under this subsection;

33 (xiii) Swimming, but only in respect to (A) recreational or  
34 fitness swimming that is open to the public, such as open swim, lap  
35 swimming, and special events like kids night out and pool parties  
36 during open swim time, and (B) pool parties for private events, such  
37 as birthdays, family gatherings, and employee outings. Fees for  
38 swimming lessons, to participate in swim meets and other  
39 competitions, or to join a swim team, club, or aquatic facility are  
40 not retail sales under this subsection (15)(a)(xiii);

1 (xiv) Go-karting, bumper cars, and other motorized activities  
2 where the seller provides the vehicle and the premises where the  
3 buyer will operate the vehicle;

4 (xv) Indoor or outdoor playground activities, such as inflatable  
5 bounce structures and other inflatables; mazes; trampolines; slides;  
6 ball pits; games of tag, including laser tag and soft-dart tag; and  
7 human gyroscope rides, regardless of whether such activities occur at  
8 the seller's place of business, but not including playground  
9 activities provided for children by a licensed child day care center  
10 or licensed family day care provider as those terms are defined in  
11 RCW ((~~43.215.010~~)) 43.216.010;

12 (xvi) Shooting sports and activities, such as target shooting,  
13 skeet, trap, sporting clays, "5" stand, and archery, but only in  
14 respect to discrete charges to members of the public to engage in  
15 these activities, but not including fees to enter a competitive  
16 event, instruction that is entirely or predominately classroom based,  
17 or to join or renew a membership at a club, range, or other facility;

18 (xvii) Paintball and airsoft activities;

19 (xviii) Skating, including ice skating, roller skating, and  
20 inline skating, but only in respect to discrete charges to members of  
21 the public to engage in skating activities, but not including skating  
22 lessons, competitive events, team activities, or fees to join or  
23 renew a membership at a skating facility, club, or other  
24 organization;

25 (xix) Nonmotorized snow sports and activities, such as downhill  
26 and cross-country skiing, snowboarding, ski jumping, sledding, snow  
27 tubing, snowshoeing, and similar snow sports and activities, whether  
28 engaged in outdoors or in an indoor facility with or without snow,  
29 but only in respect to discrete charges to the public for the use of  
30 land or facilities to engage in nonmotorized snow sports and  
31 activities, such as fees, however labeled, for the use of ski lifts  
32 and tows and daily or season passes for access to trails or other  
33 areas where nonmotorized snow sports and activities are conducted.  
34 However, fees for the following are not retail sales under this  
35 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits  
36 issued by a governmental entity to park a vehicle on or access public  
37 lands; and (C) permits or leases granted by an owner of private  
38 timberland for recreational access to areas used primarily for  
39 growing and harvesting timber; and

1 (xx) Scuba diving; snorkeling; river rafting; surfing;  
2 kiteboarding; flyboarding; water slides; inflatables, such as water  
3 pillows, water trampolines, and water rollers; and similar water  
4 sports and activities.

5 (b) Notwithstanding anything to the contrary in this subsection  
6 (15), the term "sale at retail" or "retail sale" does not include  
7 charges:

8 (i) Made for admission to, and rides or attractions at, fairs,  
9 carnivals, and festivals. For the purposes of this subsection, fairs,  
10 carnivals, and festivals are events that do not exceed twenty-one  
11 days and a majority of the amusement rides, if any, are not affixed  
12 to real property;

13 (ii) Made by an educational institution to its students and staff  
14 for activities defined as retail sales by (a)(i) through (xx) of this  
15 subsection. However, charges made by an educational institution to  
16 its alumni or other members of the general public for these  
17 activities are a retail sale under this subsection (15). For purposes  
18 of this subsection (15)(b)(ii), "educational institution" has the  
19 same meaning as in RCW 82.04.170;

20 (iii) Made by a vocational school for commercial diver training  
21 that is licensed by the workforce training and education coordinating  
22 board under chapter 28C.10 RCW; or

23 (iv) Made for day camps offered by a nonprofit organization or  
24 state or local governmental entity that provide youth not older than  
25 age eighteen, or that are focused on providing individuals with  
26 disabilities or mental illness, the opportunity to participate in a  
27 variety of supervised activities.

28 (16)(a) The term "sale at retail" or "retail sale" includes the  
29 purchase or acquisition of tangible personal property and specified  
30 services by a person who receives a qualifying grant exempt from tax  
31 under section 1 or 2 of this act, except for transactions excluded  
32 from the definition of "sale at retail" or "retail sale" by any other  
33 provision of this section. Nothing in this subsection (16) may be  
34 construed to limit the application of any other provision of this  
35 section to purchases by a recipient of a qualifying grant exempt from  
36 tax under section 1 of this act or by any other person.

37 (b) For purposes of this subsection (16), "specified services"  
38 means:

39 (i) The constructing, repairing, decorating, or improving of new  
40 or existing buildings or other structures under, upon, or above real

1 property, including the installing or attaching of any article of  
2 tangible personal property therein or thereto, whether or not such  
3 personal property becomes a part of the realty by virtue of  
4 installation;

5 (ii) The clearing of land or the moving of earth, whether or not  
6 associated with activities described in (b)(i) of this subsection  
7 (16);

8 (iii) The razing or moving of existing buildings or structures;  
9 and

10 (iv) Landscape maintenance and horticultural services.

11 NEW SECTION. Sec. 4. A new section is added to chapter 82.08  
12 RCW to read as follows:

13 (1) The tax levied by RCW 82.08.020 does not apply to a grantee's  
14 receipt of a qualifying grant that is exempt from business and  
15 occupation tax under section 1 of this act.

16 (2) Nothing in this section may be construed to:

17 (a) Imply that the tax levied by RCW 82.08.020 applies to any  
18 circumstance not described in subsection (1) of this section; or

19 (b) Provide an exemption from the tax levied by RCW 82.08.020 for  
20 the grantee's use of a qualifying grant to acquire products in a  
21 transaction meeting the definition of "retail sale" in RCW 82.04.050.

22 (3) For purposes of this section, the following definitions  
23 apply:

24 (a) "Grantee" means the recipient of a qualifying grant.

25 (b) "Product" means the same as in RCW 82.32.023.

26 (c) "Qualifying grant" means the same as in section 1 of this  
27 act.

28 NEW SECTION. Sec. 5. 2020 c 80 s 58 is repealed.

29 **Sec. 6.** 2020 c 80 s 62 (uncodified) is amended to read as  
30 follows:

31 Sections 12 through 57 and 59 of this act take effect July 1,  
32 2022.

33 NEW SECTION. Sec. 7. This act applies both prospectively and  
34 retroactively to February 29, 2020.



1        NEW SECTION.    **Sec. 8.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of  
3    the state government and its existing public institutions, and takes  
4    effect immediately.

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