

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1069

67th Legislature
2021 Regular Session

Passed by the House February 25, 2021
Yeas 56 Nays 42

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2021
Yeas 26 Nays 22

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1069** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1069

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By House Finance (originally sponsored by Representatives Pollet, Duerr, Leavitt, Wylie, Tharinger, Kloba, Senn, Ryu, Callan, and Fey)

READ FIRST TIME 02/01/21.

1 AN ACT Relating to local government fiscal flexibility; amending
2 RCW 82.14.310, 82.14.320, 82.14.330, 82.14.340, 82.14.450, 82.14.460,
3 82.04.050, 82.04.050, 82.46.010, 82.46.015, 82.46.035, 82.46.037,
4 84.55.050, 35.21.290, and 35.67.210; creating a new section;
5 providing an effective date; providing an expiration date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the COVID-19
9 pandemic, as recognized by emergency proclamations issued by the
10 governor, has resulted in an unprecedented drop in local government
11 revenues. The legislature intends to provide local governments with
12 increased flexibility in the use of existing revenues in order to
13 enable local governments to continue to provide essential services
14 and to facilitate economic recovery through December 31, 2023.

15 **PART I**

16 **CRIMINAL JUSTICE SALES TAX**

17 **Sec. 2.** RCW 82.14.310 and 2019 c 415 s 988 are each amended to
18 read as follows:

1 (1) The county criminal justice assistance account is created in
2 the state treasury. Beginning in fiscal year 2000, the state
3 treasurer must transfer into the county criminal justice assistance
4 account from the general fund the sum of (~~twenty-three million two~~
5 ~~hundred thousand dollars~~) \$23,200,000 divided into four equal
6 deposits occurring on July 1, October 1, January 1, and April 1. For
7 each fiscal year thereafter, the state treasurer must increase the
8 total transfer by the fiscal growth factor, as defined in RCW
9 43.135.025, forecast for that fiscal year by the office of financial
10 management in November of the preceding year.

11 (2) The moneys deposited in the county criminal justice
12 assistance account for distribution under this section, less any
13 moneys appropriated for purposes under subsections (4) and (5) of
14 this section, must be distributed at such times as distributions are
15 made under RCW 82.44.150 and on the relative basis of each county's
16 funding factor as determined under this subsection.

17 (a) A county's funding factor is the sum of:

18 (i) The population of the county, divided by (~~one thousand~~)
19 1,000, and multiplied by two-tenths;

20 (ii) The crime rate of the county, multiplied by three-tenths;
21 and

22 (iii) The annual number of criminal cases filed in the county
23 superior court, for each (~~one thousand~~) 1,000 in population,
24 multiplied by five-tenths.

25 (b) Under this section and RCW 82.14.320 and 82.14.330:

26 (i) The population of the county or city is as last determined by
27 the office of financial management;

28 (ii) The crime rate of the county or city is the annual
29 occurrence of specified criminal offenses, as calculated in the most
30 recent annual report on crime in Washington state as published by the
31 Washington association of sheriffs and police chiefs, for each (~~one~~
32 ~~thousand~~) 1,000 in population;

33 (iii) The annual number of criminal cases filed in the county
34 superior court must be determined by the most recent annual report of
35 the courts of Washington, as published by the administrative office
36 of the courts;

37 (iv) Distributions and eligibility for distributions in the
38 1989-1991 biennium must be based on 1988 figures for both the crime
39 rate as described under (ii) of this subsection and the annual number
40 of criminal cases that are filed as described under (iii) of this

1 subsection. Future distributions must be based on the most recent
2 figures for both the crime rate as described under (ii) of this
3 subsection and the annual number of criminal cases that are filed as
4 described under (iii) of this subsection.

5 (3) Moneys distributed under this section must be expended
6 exclusively for criminal justice purposes (~~and~~). Except after the
7 effective date of this section through December 31, 2023, these funds
8 may not be used to replace or supplant existing funding. Criminal
9 justice purposes are defined as activities that substantially assist
10 the criminal justice system, which may include circumstances where
11 ancillary benefit to the civil or juvenile justice system occurs, and
12 which includes (a) domestic violence services such as those provided
13 by domestic violence programs, community advocates, and legal
14 advocates, as defined in RCW 70.123.020, and (b) during the 2001-2003
15 fiscal biennium, juvenile dispositional hearings relating to
16 petitions for at-risk youth, truancy, and children in need of
17 services. Existing funding for purposes of this subsection is defined
18 as calendar year 1989 actual operating expenditures for criminal
19 justice purposes. Calendar year 1989 actual operating expenditures
20 for criminal justice purposes exclude the following: Expenditures for
21 extraordinary events not likely to reoccur, changes in contract
22 provisions for criminal justice services, beyond the control of the
23 local jurisdiction receiving the services, and major nonrecurring
24 capital expenditures.

25 (4) Not more than five percent of the funds deposited to the
26 county criminal justice assistance account may be available for
27 appropriations for enhancements to the state patrol crime laboratory
28 system and the continuing costs related to these enhancements. Funds
29 appropriated from this account for such enhancements may not supplant
30 existing funds from the state general fund.

31 (5) During the 2017-2019 fiscal biennium, the sum of (~~one~~
32 ~~hundred fifty-three thousand dollars~~) \$153,000, and during the
33 2019-2021 fiscal biennium, the sum of (~~five hundred ten thousand~~
34 ~~dollars~~) \$510,000, may be appropriated for the Washington state
35 patrol to provide investigative assistance and report services to
36 assist local law enforcement agencies to prosecute criminals. It is
37 the intent of the legislature that this policy will be continued in
38 subsequent fiscal biennia.

1 **Sec. 3.** RCW 82.14.320 and 2011 1st sp.s. c 50 s 971 are each
2 amended to read as follows:

3 (1) The municipal criminal justice assistance account is created
4 in the state treasury. Beginning in fiscal year 2000, the state
5 treasurer must transfer into the municipal criminal justice
6 assistance account for distribution under this section from the
7 general fund the sum of (~~four million six hundred thousand dollars~~)
8 \$4,600,000 divided into four equal deposits occurring on July 1,
9 October 1, January 1, and April 1. For each fiscal year thereafter,
10 the state treasurer must increase the total transfer by the fiscal
11 growth factor, as defined in RCW 43.135.025, forecast for that fiscal
12 year by the office of financial management in November of the
13 preceding year.

14 (2) No city may receive a distribution under this section from
15 the municipal criminal justice assistance account unless:

16 (a) The city has a crime rate in excess of (~~one hundred twenty-~~
17 ~~five~~) 125 percent of the statewide average as calculated in the most
18 recent annual report on crime in Washington state as published by the
19 Washington association of sheriffs and police chiefs;

20 (b) The city has levied the tax authorized in RCW 82.14.030(2) at
21 the maximum rate or the tax authorized in RCW 82.46.010(3) at the
22 maximum rate; and

23 (c) The city has a per capita yield from the tax imposed under
24 RCW 82.14.030(1) at the maximum rate of less than (~~one hundred~~
25 ~~fifty~~) 150 percent of the statewide average per capita yield for all
26 cities from such local sales and use tax.

27 (3) The moneys deposited in the municipal criminal justice
28 assistance account for distribution under this section, less any
29 moneys appropriated for purposes under subsection (7) of this
30 section, must be distributed at such times as distributions are made
31 under RCW 82.44.150. The distributions must be made as follows:

32 (a) Unless reduced by this subsection, (~~thirty~~) 30 percent of
33 the moneys must be distributed ratably based on population as last
34 determined by the office of financial management to those cities
35 eligible under subsection (2) of this section that have a crime rate
36 determined under subsection (2)(a) of this section which is greater
37 than (~~one hundred seventy-five~~) 175 percent of the statewide
38 average crime rate. No city may receive more than (~~fifty~~) 50
39 percent of any moneys distributed under this subsection (a) but, if a
40 city distribution is reduced as a result of exceeding the (~~fifty~~)

1 50 percent limitation, the amount not distributed must be distributed
2 under (b) of this subsection.

3 (b) The remainder of the moneys, including any moneys not
4 distributed in subsection (2)(a) of this section, must be distributed
5 to all cities eligible under subsection (2) of this section ratably
6 based on population as last determined by the office of financial
7 management.

8 (4) No city may receive more than (~~thirty~~) 30 percent of all
9 moneys distributed under subsection (3) of this section.

10 (5) Notwithstanding other provisions of this section, the
11 distributions to any city that substantially decriminalizes or
12 repeals its criminal code after July 1, 1990, and that does not
13 reimburse the county for costs associated with criminal cases under
14 RCW 3.50.800 or 3.50.805(2), must be made to the county in which the
15 city is located.

16 (6) Moneys distributed under this section must be expended
17 exclusively for criminal justice purposes (~~and~~). Except after the
18 effective date of this section through December 31, 2023, these funds
19 may not be used to replace or supplant existing funding. Criminal
20 justice purposes are defined as activities that substantially assist
21 the criminal justice system, which may include circumstances where
22 ancillary benefit to the civil justice system occurs, and which
23 includes domestic violence services such as those provided by
24 domestic violence programs, community advocates, and legal advocates,
25 as defined in RCW 70.123.020, and publications and public educational
26 efforts designed to provide information and assistance to parents in
27 dealing with runaway or at-risk youth. Existing funding for purposes
28 of this subsection is defined as calendar year 1989 actual operating
29 expenditures for criminal justice purposes. Calendar year 1989 actual
30 operating expenditures for criminal justice purposes exclude the
31 following: Expenditures for extraordinary events not likely to
32 reoccur, changes in contract provisions for criminal justice
33 services, beyond the control of the local jurisdiction receiving the
34 services, and major nonrecurring capital expenditures.

35 (7) Not more than five percent of the funds deposited to the
36 municipal criminal justice assistance account may be available for
37 appropriations for enhancements to the state patrol crime laboratory
38 system and the continuing costs related to these enhancements. Funds
39 appropriated from this account for such enhancements may not supplant
40 existing funds from the state general fund.

1 (8) During the 2011-2013 fiscal biennium, the amount that would
2 otherwise be transferred into the municipal criminal justice
3 assistance account from the general fund under subsection (1) of this
4 section must be reduced by 3.4 percent.

5 **Sec. 4.** RCW 82.14.330 and 2011 1st sp.s. c 50 s 972 are each
6 amended to read as follows:

7 (1)(a) Beginning in fiscal year 2000, the state treasurer must
8 transfer into the municipal criminal justice assistance account for
9 distribution under this section from the general fund the sum of
10 (~~four million six hundred thousand dollars~~) \$4,600,000 divided into
11 four equal deposits occurring on July 1, October 1, January 1, and
12 April 1. For each fiscal year thereafter, the state treasurer must
13 increase the total transfer by the fiscal growth factor, as defined
14 in RCW 43.135.025, forecast for that fiscal year by the office of
15 financial management in November of the preceding year. The moneys
16 deposited in the municipal criminal justice assistance account for
17 distribution under this section, less any moneys appropriated for
18 purposes under subsection (4) of this section, must be distributed to
19 the cities of the state as follows:

20 (i) (~~Twenty~~) 20 percent appropriated for distribution must be
21 distributed to cities with a three-year average violent crime rate
22 for each (~~one thousand~~) 1,000 in population in excess of (~~one~~
23 ~~hundred fifty~~) 150 percent of the statewide three-year average
24 violent crime rate for each (~~one thousand~~) 1,000 in population. The
25 three-year average violent crime rate must be calculated using the
26 violent crime rates for each of the preceding three years from the
27 annual reports on crime in Washington state as published by the
28 Washington association of sheriffs and police chiefs. Moneys must be
29 distributed under this subsection (1)(a) ratably based on population
30 as last determined by the office of financial management, but no city
31 may receive more than one dollar per capita. Moneys remaining
32 undistributed under this subsection at the end of each calendar year
33 must be distributed to the criminal justice training commission to
34 reimburse participating city law enforcement agencies with (~~ten~~) 10
35 or fewer full-time commissioned patrol officers the cost of temporary
36 replacement of each officer who is enrolled in basic law enforcement
37 training, as provided in RCW 43.101.200.

38 (ii) (~~Sixteen~~) 16 percent must be distributed to cities ratably
39 based on population as last determined by the office of financial

1 management, but no city may receive less than (~~one thousand~~
2 dollars)) \$1,000.

3 (b) The moneys deposited in the municipal criminal justice
4 assistance account for distribution under this subsection (1) must be
5 distributed at such times as distributions are made under RCW
6 82.44.150.

7 (c) Moneys distributed under this subsection (1) must be expended
8 exclusively for criminal justice purposes (~~and~~). Except after the
9 effective date of this section through December 31, 2023, these funds
10 may not be used to replace or supplant existing funding. Criminal
11 justice purposes are defined as activities that substantially assist
12 the criminal justice system, which may include circumstances where
13 ancillary benefit to the civil justice system occurs, and which
14 includes domestic violence services such as those provided by
15 domestic violence programs, community advocates, and legal advocates,
16 as defined in RCW 70.123.020. Existing funding for purposes of this
17 subsection is defined as calendar year 1989 actual operating
18 expenditures for criminal justice purposes. Calendar year 1989 actual
19 operating expenditures for criminal justice purposes exclude the
20 following: Expenditures for extraordinary events not likely to
21 reoccur, changes in contract provisions for criminal justice
22 services, beyond the control of the local jurisdiction receiving the
23 services, and major nonrecurring capital expenditures.

24 (2) (a) In addition to the distributions under subsection (1) of
25 this section:

26 (i) (~~Ten~~) 10 percent must be distributed on a per capita basis
27 to cities that contract with another governmental agency for the
28 majority of the city's law enforcement services. Cities that
29 subsequently qualify for this distribution must notify the department
30 of commerce by November 30th for the upcoming calendar year. The
31 department of commerce must provide a list of eligible cities to the
32 state treasurer by December 31st. The state treasurer must modify the
33 distribution of these funds in the following year. Cities have the
34 responsibility to notify the department of commerce of any changes
35 regarding these contractual relationships. Adjustments in the
36 distribution formula to add or delete cities may be made only for the
37 upcoming calendar year; no adjustments may be made retroactively.

38 (ii) The remaining (~~fifty-four~~) 54 percent must be distributed
39 to cities and towns by the state treasurer on a per capita basis.
40 These funds must be used for: (A) Innovative law enforcement

1 strategies; (B) programs to help at-risk children or child abuse
2 victim response programs; and (C) programs designed to reduce the
3 level of domestic violence or to provide counseling for domestic
4 violence victims.

5 (b) The moneys deposited in the municipal criminal justice
6 assistance account for distribution under this subsection (2), less
7 any moneys appropriated for purposes under subsection (4) of this
8 section, must be distributed at the times as distributions are made
9 under RCW 82.44.150. Moneys remaining undistributed under this
10 subsection at the end of each calendar year must be distributed to
11 the criminal justice training commission to reimburse participating
12 city law enforcement agencies with (~~ten~~) 10 or fewer full-time
13 commissioned patrol officers the cost of temporary replacement of
14 each officer who is enrolled in basic law enforcement training, as
15 provided in RCW 43.101.200.

16 (c) If a city is found by the state auditor to have expended
17 funds received under this subsection (2) in a manner that does not
18 comply with the criteria under which the moneys were received, the
19 city is ineligible to receive future distributions under this
20 subsection (2) until the use of the moneys are justified to the
21 satisfaction of the director or are repaid to the state general fund.

22 (3) Notwithstanding other provisions of this section, the
23 distributions to any city that substantially decriminalizes or
24 repeals its criminal code after July 1, 1990, and that does not
25 reimburse the county for costs associated with criminal cases under
26 RCW 3.50.800 or 3.50.805(2), must be made to the county in which the
27 city is located.

28 (4) Not more than five percent of the funds deposited to the
29 municipal criminal justice assistance account may be available for
30 appropriations for enhancements to the state patrol crime laboratory
31 system and the continuing costs related to these enhancements. Funds
32 appropriated from this account for such enhancements may not supplant
33 existing funds from the state general fund.

34 (5) During the 2011-2013 fiscal biennium, the amount that would
35 otherwise be transferred into the municipal criminal justice
36 assistance account from the general fund under subsection (1) of this
37 section must be reduced by 3.4 percent.

38 **Sec. 5.** RCW 82.14.340 and 2010 c 127 s 3 are each amended to
39 read as follows:

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

8 (2) The tax authorized in this section is in addition to any
9 other taxes authorized by law and must be collected from those
10 persons who are taxable by the state pursuant to chapters 82.08 and
11 82.12 RCW upon the occurrence of any taxable event within such
12 county. The rate of tax equals one-tenth of one percent of the
13 selling price (in the case of a sales tax) or value of the article
14 used (in the case of a use tax).

15 (3) When distributing moneys collected under this section, the
16 state treasurer must distribute (~~(ten)~~) 10 percent of the moneys to
17 the county in which the tax was collected. The remainder of the
18 moneys collected under this section must be distributed to the county
19 and the cities within the county ratably based on population as last
20 determined by the office of financial management. In making the
21 distribution based on population, the county must receive that
22 proportion that the unincorporated population of the county bears to
23 the total population of the county and each city must receive that
24 proportion that the city incorporated population bears to the total
25 county population.

26 (4) Moneys received from any tax imposed under this section must
27 be expended for criminal justice purposes. Criminal justice purposes
28 are defined as activities that substantially assist the criminal
29 justice system, which may include circumstances where ancillary
30 benefit to the civil justice system occurs, and which includes
31 domestic violence services such as those provided by domestic
32 violence programs, community advocates, and legal advocates, as
33 defined in RCW 70.123.020. After the effective date of this section
34 through December 31, 2023, criminal justice purposes includes local
35 government programs which have a reasonable relationship to reducing
36 the numbers of people interacting with the criminal justice system
37 including, but not limited to, reducing homelessness or improving
38 behavioral health.

39 (5) In the expenditure of funds for criminal justice purposes as
40 provided in this section, cities and counties, or any combination

1 thereof, are expressly authorized to participate in agreements,
2 pursuant to chapter 39.34 RCW, to jointly expend funds for criminal
3 justice purposes of mutual benefit. Such criminal justice purposes of
4 mutual benefit include, but are not limited to, the construction,
5 improvement, and expansion of jails, court facilities, juvenile
6 justice facilities, and services with ancillary benefits to the civil
7 justice system.

8 **Sec. 6.** RCW 82.14.450 and 2010 c 127 s 1 are each amended to
9 read as follows:

10 (1) A county legislative authority may submit an authorizing
11 proposition to the county voters at a primary or general election
12 and, if the proposition is approved by a majority of persons voting,
13 impose a sales and use tax in accordance with the terms of this
14 chapter. The title of each ballot measure must clearly state the
15 purposes for which the proposed sales and use tax will be used. The
16 rate of tax under this section may not exceed three-tenths of one
17 percent of the selling price in the case of a sales tax, or value of
18 the article used, in the case of a use tax.

19 (2)(a) A city legislative authority may submit an authorizing
20 proposition to the city voters at a primary or general election and,
21 if the proposition is approved by a majority of persons voting,
22 impose a sales and use tax in accordance with the terms of this
23 chapter. The title of each ballot measure must clearly state the
24 purposes for which the proposed sales and use tax will be used. The
25 rate of tax under this subsection may not exceed one-tenth of one
26 percent of the selling price in the case of a sales tax, or value of
27 the article used, in the case of a use tax. A city may not begin
28 imposing a tax approved by the voters under this subsection prior to
29 January 1, 2011.

30 (b) If a county adopts an ordinance or resolution to submit a
31 ballot proposition to the voters to impose the sales and use tax
32 under subsection (1) of this section prior to a city within the
33 county adopting an ordinance or resolution to submit a ballot
34 proposition to the voters to impose the tax under this subsection,
35 the rate of tax by the city under this subsection may not exceed an
36 amount that would cause the total county and city tax rate under this
37 section to exceed three-tenths of one percent. This subsection (2)(b)
38 also applies if the county and city adopt an ordinance or resolution
39 to impose sales and use taxes under this section on the same date.

1 (c) If the city adopts an ordinance or resolution to submit a
2 ballot proposition to the voters to impose the sales and use tax
3 under this subsection prior to the county in which the city is
4 located, the county must provide a credit against its tax under
5 subsection (1) of this section for the city tax under this subsection
6 to the extent the total county and city tax rate under this section
7 would exceed three-tenths of one percent.

8 (3) The tax authorized in this section is in addition to any
9 other taxes authorized by law and must be collected from those
10 persons who are taxable by the state under chapters 82.08 and 82.12
11 RCW upon the occurrence of any taxable event within the county.

12 (4) The retail sale or use of motor vehicles, and the lease of
13 motor vehicles for up to the first thirty-six months of the lease,
14 are exempt from tax imposed under this section.

15 (5) One-third of all money received under this section must be
16 used solely for criminal justice purposes, fire protection purposes,
17 or both. For the purposes of this subsection, "criminal justice
18 purposes" has the same meaning as provided in RCW 82.14.340, except
19 that from the effective date of this section through December 31,
20 2023, "criminal justice purposes" includes local government programs
21 which have a reasonable relationship to reducing the numbers of
22 people interacting with the criminal justice system including, but
23 not limited to, reducing homelessness or improving behavioral health.

24 (6) Money received by a county under subsection (1) of this
25 section must be shared between the county and the cities as follows:
26 (~~Sixty~~) 60 percent must be retained by the county and (~~forty~~) 40
27 percent must be distributed on a per capita basis to cities in the
28 county.

29 (7) Tax proceeds received by a city imposing a tax under this
30 section must be shared between the county and city as follows:
31 (~~Fifteen~~) 15 percent must be distributed to the county and
32 (~~eighty-five~~) 85 percent is retained by the city.

33 **Sec. 7.** RCW 82.14.460 and 2015 c 291 s 5 are each amended to
34 read as follows:

35 (1)(a) A county legislative authority may authorize, fix, and
36 impose a sales and use tax in accordance with the terms of this
37 chapter.

38 (b) If a county with a population over eight hundred thousand has
39 not imposed the tax authorized under this subsection by January 1,

1 2011, any city with a population over thirty thousand located in that
2 county may authorize, fix, and impose the sales and use tax in
3 accordance with the terms of this chapter. The county must provide a
4 credit against its tax for the full amount of tax imposed under this
5 subsection (1)(b) by any city located in that county if the county
6 imposes the tax after January 1, 2011.

7 (2) The tax authorized in this section is in addition to any
8 other taxes authorized by law and must be collected from those
9 persons who are taxable by the state under chapters 82.08 and 82.12
10 RCW upon the occurrence of any taxable event within the county for a
11 county's tax and within a city for a city's tax. The rate of tax
12 equals one-tenth of one percent of the selling price in the case of a
13 sales tax, or value of the article used, in the case of a use tax.

14 (3) Moneys collected under this section must be used solely for
15 the purpose of providing for the operation or delivery of chemical
16 dependency or mental health treatment programs and services and for
17 the operation or delivery of therapeutic court programs and services.
18 Moneys collected by cities under this section may also be used for
19 modifications to existing facilities to address health and safety
20 needs necessary for the provision, operation, or delivery of chemical
21 dependency or mental health treatment programs or services otherwise
22 funded with moneys collected in this section. For the purposes of
23 this section, "programs and services" includes, but is not limited
24 to, treatment services, case management, transportation, and housing
25 that are a component of a coordinated chemical dependency or mental
26 health treatment program or service. Every county that authorizes the
27 tax provided in this section shall, and every other county may,
28 establish and operate a therapeutic court component for dependency
29 proceedings designed to be effective for the court's size, location,
30 and resources.

31 (4) All moneys collected under this section must be used solely
32 for the purpose of providing new or expanded programs and services as
33 provided in this section, except as follows:

34 (a) For a county with a population larger than twenty-five
35 thousand or a city with a population over thirty thousand, which
36 initially imposed the tax authorized under this section prior to
37 January 1, 2012, a portion of moneys collected under this section may
38 be used to supplant existing funding for these purposes as follows:
39 Up to fifty percent may be used to supplant existing funding in
40 calendar years 2011-2012; up to forty percent may be used to supplant

1 existing funding in calendar year 2013; up to thirty percent may be
2 used to supplant existing funding in calendar year 2014; up to twenty
3 percent may be used to supplant existing funding in calendar year
4 2015; and up to ten percent may be used to supplant existing funding
5 in calendar year 2016;

6 (b) For a county with a population larger than twenty-five
7 thousand or a city with a population over thirty thousand, which
8 initially imposes the tax authorized under this section after
9 December 31, 2011, a portion of moneys collected under this section
10 may be used to supplant existing funding for these purposes as
11 follows: Up to fifty percent may be used to supplant existing funding
12 for up to the first three calendar years following adoption; and up
13 to twenty-five percent may be used to supplant existing funding for
14 the fourth and fifth years after adoption;

15 (c) For a county with a population of less than twenty-five
16 thousand, a portion of moneys collected under this section may be
17 used to supplant existing funding for these purposes as follows: Up
18 to eighty percent may be used to supplant existing funding in
19 calendar years 2011-2012; up to sixty percent may be used to supplant
20 existing funding in calendar year 2013; up to forty percent may be
21 used to supplant existing funding in calendar year 2014; up to twenty
22 percent may be used to supplant existing funding in calendar year
23 2015; and up to ten percent may be used to supplant existing funding
24 in calendar year 2016; and

25 (d) Notwithstanding (a) through (c) of this subsection, moneys
26 collected under this section may be used to support the cost of the
27 judicial officer and support staff of a therapeutic court.

28 (5) Nothing in this section may be interpreted to prohibit the
29 use of moneys collected under this section for the replacement of
30 lapsed federal funding previously provided for the operation or
31 delivery of services and programs as provided in this section.

32 **PART II**
33 **LODGING TAX**

34 **Sec. 8.** RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each
35 amended to read as follows:

36 (1)(a) "Sale at retail" or "retail sale" means every sale of
37 tangible personal property (including articles produced, fabricated,
38 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. For the purposes of this section, it is presumed
15 that the sale of and charge made for the furnishing of lodging
16 offered regularly for public occupancy for periods of less than a
17 month constitutes a license to use or enjoy the property subject to
18 sales and use tax and not a rental or lease of property;

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

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

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

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

36 (b) Credit bureau services;

37 (c) Automobile parking and storage garage services;

38 (d) Landscape maintenance and horticultural services but
39 excluding (i) horticultural services provided to farmers and (ii)
40 pruning, trimming, repairing, removing, and clearing of trees and

1 brush near electric transmission or distribution lines or equipment,
2 if performed by or at the direction of an electric utility;

3 (e) Service charges associated with tickets to professional
4 sporting events;

5 (f) The following personal services: Tanning salon services,
6 tattoo parlor services, steam bath services, turkish bath services,
7 escort services, and dating services; and

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

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

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

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

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

27 (D) Separately stated charges for physical therapy provided by a
28 physical therapist, as those terms are defined in RCW 18.74.010, or
29 occupational therapy provided by an occupational therapy
30 practitioner, as those terms are defined in RCW 18.59.020, when
31 performed pursuant to a referral from an authorized health care
32 practitioner or in consultation with an authorized health care
33 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an
34 authorized health care practitioner means a health care practitioner
35 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or
36 18.71A RCW;

37 (E) Rent or association fees charged by a landlord or residential
38 association to a tenant or residential owner with access to an
39 athletic or fitness facility maintained by the landlord or

1 residential association, unless the rent or fee varies depending on
2 whether the tenant or owner has access to the facility;

3 (F) Services provided in the regular course of employment by an
4 employee with access to an athletic or fitness facility maintained by
5 the employer for use without charge by its employees or their family
6 members;

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

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

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

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

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

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

1 (C) "Physical fitness activities" means activities that involve
2 physical exertion for the purpose of improving or maintaining the
3 general fitness, strength, flexibility, conditioning, or health of
4 the participant. "Physical fitness activities" includes participating
5 in yoga, chi gong, or martial arts.

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

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

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

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

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

25 (i) Custom software; or

26 (ii) The customization of prewritten computer software.

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

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

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

1 (7) The term also includes the sale of or charge made for an
2 extended warranty to a consumer. For purposes of this subsection,
3 "extended warranty" means an agreement for a specified duration to
4 perform the replacement or repair of tangible personal property at no
5 additional charge or a reduced charge for tangible personal property,
6 labor, or both, or to provide indemnification for the replacement or
7 repair of tangible personal property, based on the occurrence of
8 specified events. The term "extended warranty" does not include an
9 agreement, otherwise meeting the definition of extended warranty in
10 this subsection, if no separate charge is made for the agreement and
11 the value of the agreement is included in the sales price of the
12 tangible personal property covered by the agreement. For purposes of
13 this subsection, "sales price" has the same meaning as in RCW
14 82.08.010.

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

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

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

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

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

25 (b) A retail sale of digital goods, digital codes, or digital
26 automated services under this subsection (8) includes any services
27 provided by the seller exclusively in connection with the digital
28 goods, digital codes, or digital automated services, whether or not a
29 separate charge is made for such services.

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

36 (9) The term also includes the charge made for providing tangible
37 personal property along with an operator for a fixed or indeterminate
38 period of time. A consideration of this is that the operator is
39 necessary for the tangible personal property to perform as designed.

1 For the purpose of this subsection (9), an operator must do more than
2 maintain, inspect, or set up the tangible personal property.

3 (10) The term does not include the sale of or charge made for
4 labor and services rendered in respect to the building, repairing, or
5 improving of any street, place, road, highway, easement, right-of-
6 way, mass public transportation terminal or parking facility, bridge,
7 tunnel, or trestle which is owned by a municipal corporation or
8 political subdivision of the state or by the United States and which
9 is used or to be used primarily for foot or vehicular traffic
10 including mass transportation vehicles of any kind.

11 (11) The term also does not include sales of chemical sprays or
12 washes to persons for the purpose of postharvest treatment of fruit
13 for the prevention of scald, fungus, mold, or decay, nor does it
14 include sales of feed, seed, seedlings, fertilizer, agents for
15 enhanced pollination including insects such as bees, and spray
16 materials to: (a) Persons who participate in the federal conservation
17 reserve program, the environmental quality incentives program, the
18 wetlands reserve program, and the wildlife habitat incentives
19 program, or their successors administered by the United States
20 department of agriculture; (b) farmers for the purpose of producing
21 for sale any agricultural product; (c) farmers for the purpose of
22 providing bee pollination services; and (d) farmers acting under
23 cooperative habitat development or access contracts with an
24 organization exempt from federal income tax under 26 U.S.C. Sec.
25 501(c)(3) of the federal internal revenue code or the Washington
26 state department of fish and wildlife to produce or improve wildlife
27 habitat on land that the farmer owns or leases.

28 (12) The term does not include the sale of or charge made for
29 labor and services rendered in respect to the constructing,
30 repairing, decorating, or improving of new or existing buildings or
31 other structures under, upon, or above real property of or for the
32 United States, any instrumentality thereof, or a county or city
33 housing authority created pursuant to chapter 35.82 RCW, including
34 the installing, or attaching of any article of tangible personal
35 property therein or thereto, whether or not such personal property
36 becomes a part of the realty by virtue of installation. Nor does the
37 term include the sale of services or charges made for the clearing of
38 land and the moving of earth of or for the United States, any
39 instrumentality thereof, or a county or city housing authority. Nor
40 does the term include the sale of services or charges made for

1 cleaning up for the United States, or its instrumentalities,
2 radioactive waste and other by-products of weapons production and
3 nuclear research and development.

4 (13) The term does not include the sale of or charge made for
5 labor, services, or tangible personal property pursuant to agreements
6 providing maintenance services for bus, rail, or rail fixed guideway
7 equipment when a regional transit authority is the recipient of the
8 labor, services, or tangible personal property, and a transit agency,
9 as defined in RCW 81.104.015, performs the labor or services.

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

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

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

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

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

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

3 (iv) Access to amusement park, theme park, and water park
4 facilities, including but not limited to charges for admission and
5 locker or cabana rentals. Discrete charges for rides or other
6 attractions or entertainment that are in addition to the charge for
7 admission are not a retail sale under this subsection (15)(a)(iv).
8 For the purposes of this subsection, an amusement park or theme park
9 is a location that provides permanently affixed amusement rides,
10 games, and other entertainment, but does not include parks or zoos
11 for which the primary purpose is the exhibition of wildlife, or
12 fairs, carnivals, and festivals as defined in (b)(i) of this
13 subsection;

14 (v) Batting cage activities;

15 (vi) Bowling, but not including competitive events, except that
16 amounts paid by the event participants to the bowling alley operator
17 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
18 paid by the event organizer to the operator of the bowling alley are
19 retail sales under this subsection (15)(a)(vi), if such amounts vary
20 based on the number of event participants;

21 (vii) Climbing on artificial climbing structures, whether indoors
22 or outdoors;

23 (viii) Day trips for sightseeing purposes;

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

26 (x) Horseback riding offered to the public, where the seller
27 furnishes the horse to the buyer and providing instruction is not the
28 primary focus of the activity, including guided rides, but not
29 including therapeutic horseback riding provided by an instructor
30 certified by a nonprofit organization that offers national or
31 international certification for therapeutic riding instructors;

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

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

39 (xiii) Swimming, but only in respect to (A) recreational or
40 fitness swimming that is open to the public, such as open swim, lap

1 swimming, and special events like kids night out and pool parties
2 during open swim time, and (B) pool parties for private events, such
3 as birthdays, family gatherings, and employee outings. Fees for
4 swimming lessons, to participate in swim meets and other
5 competitions, or to join a swim team, club, or aquatic facility are
6 not retail sales under this subsection (15)(a)(xiii);

7 (xiv) Go-karting, bumper cars, and other motorized activities
8 where the seller provides the vehicle and the premises where the
9 buyer will operate the vehicle;

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

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

24 (xvii) Paintball and airsoft activities;

25 (xviii) Skating, including ice skating, roller skating, and
26 inline skating, but only in respect to discrete charges to members of
27 the public to engage in skating activities, but not including skating
28 lessons, competitive events, team activities, or fees to join or
29 renew a membership at a skating facility, club, or other
30 organization;

31 (xix) Nonmotorized snow sports and activities, such as downhill
32 and cross-country skiing, snowboarding, ski jumping, sledding, snow
33 tubing, snowshoeing, and similar snow sports and activities, whether
34 engaged in outdoors or in an indoor facility with or without snow,
35 but only in respect to discrete charges to the public for the use of
36 land or facilities to engage in nonmotorized snow sports and
37 activities, such as fees, however labeled, for the use of ski lifts
38 and tows and daily or season passes for access to trails or other
39 areas where nonmotorized snow sports and activities are conducted.
40 However, fees for the following are not retail sales under this

1 subsection (15) (a) (xix): (A) Instructional lessons; (B) permits
2 issued by a governmental entity to park a vehicle on or access public
3 lands; and (C) permits or leases granted by an owner of private
4 timberland for recreational access to areas used primarily for
5 growing and harvesting timber; and

6 (xx) Scuba diving; snorkeling; river rafting; surfing;
7 kiteboarding; flyboarding; water slides; inflatables, such as water
8 pillows, water trampolines, and water rollers; and similar water
9 sports and activities.

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

13 (i) Made for admission to, and rides or attractions at, fairs,
14 carnivals, and festivals. For the purposes of this subsection, fairs,
15 carnivals, and festivals are events that do not exceed (~~twenty-one~~)
16 21 days and a majority of the amusement rides, if any, are not
17 affixed to real property;

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

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

28 (iv) Made for day camps offered by a nonprofit organization or
29 state or local governmental entity that provide youth not older than
30 age (~~eighteen~~) 18, or that are focused on providing individuals
31 with disabilities or mental illness, the opportunity to participate
32 in a variety of supervised activities.

33 **Sec. 9.** RCW 82.04.050 and 2020 c 80 s 58 are each amended to
34 read as follows:

35 (1) (a) "Sale at retail" or "retail sale" means every sale of
36 tangible personal property (including articles produced, fabricated,
37 or imprinted) to all persons irrespective of the nature of their
38 business and including, among others, without limiting the scope
39 hereof, persons who install, repair, clean, alter, improve,

1 construct, or decorate real or personal property of or for consumers
2 other than a sale to a person who:

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

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

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

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

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

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

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

37 (c) The term also means every sale of tangible personal property
38 to persons engaged in any business that is taxable under RCW
39 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

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

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

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

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

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

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

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

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

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

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

33 (b) Credit bureau services;

34 (c) Automobile parking and storage garage services;

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

1 (e) Service charges associated with tickets to professional
2 sporting events;

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

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

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

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

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

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

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

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

1 (F) Services provided in the regular course of employment by an
2 employee with access to an athletic or fitness facility maintained by
3 the employer for use without charge by its employees or their family
4 members;

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

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

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

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

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

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

38 (C) "Physical fitness activities" means activities that involve
39 physical exertion for the purpose of improving or maintaining the
40 general fitness, strength, flexibility, conditioning, or health of

1 the participant. "Physical fitness activities" includes participating
2 in yoga, chi gong, or martial arts.

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

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

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

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

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

22 (i) Custom software; or

23 (ii) The customization of prewritten computer software.

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

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

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

38 (7) The term also includes the sale of or charge made for an
39 extended warranty to a consumer. For purposes of this subsection,
40 "extended warranty" means an agreement for a specified duration to

1 perform the replacement or repair of tangible personal property at no
2 additional charge or a reduced charge for tangible personal property,
3 labor, or both, or to provide indemnification for the replacement or
4 repair of tangible personal property, based on the occurrence of
5 specified events. The term "extended warranty" does not include an
6 agreement, otherwise meeting the definition of extended warranty in
7 this subsection, if no separate charge is made for the agreement and
8 the value of the agreement is included in the sales price of the
9 tangible personal property covered by the agreement. For purposes of
10 this subsection, "sales price" has the same meaning as in RCW
11 82.08.010.

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

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

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

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

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

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

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

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

39 (10) The term does not include the sale of or charge made for
40 labor and services rendered in respect to the building, repairing, or

1 improving of any street, place, road, highway, easement, right-of-
2 way, mass public transportation terminal or parking facility, bridge,
3 tunnel, or trestle which is owned by a municipal corporation or
4 political subdivision of the state or by the United States and which
5 is used or to be used primarily for foot or vehicular traffic
6 including mass transportation vehicles of any kind.

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

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

1 (13) The term does not include the sale of or charge made for
2 labor, services, or tangible personal property pursuant to agreements
3 providing maintenance services for bus, rail, or rail fixed guideway
4 equipment when a regional transit authority is the recipient of the
5 labor, services, or tangible personal property, and a transit agency,
6 as defined in RCW 81.104.015, performs the labor or services.

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

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

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

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

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

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

1 (iv) Access to amusement park, theme park, and water park
2 facilities, including but not limited to charges for admission and
3 locker or cabana rentals. Discrete charges for rides or other
4 attractions or entertainment that are in addition to the charge for
5 admission are not a retail sale under this subsection (15)(a)(iv).
6 For the purposes of this subsection, an amusement park or theme park
7 is a location that provides permanently affixed amusement rides,
8 games, and other entertainment, but does not include parks or zoos
9 for which the primary purpose is the exhibition of wildlife, or
10 fairs, carnivals, and festivals as defined in (b)(i) of this
11 subsection;

12 (v) Batting cage activities;

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

19 (vii) Climbing on artificial climbing structures, whether indoors
20 or outdoors;

21 (viii) Day trips for sightseeing purposes;

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

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

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

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

37 (xiii) Swimming, but only in respect to (A) recreational or
38 fitness swimming that is open to the public, such as open swim, lap
39 swimming, and special events like kids night out and pool parties
40 during open swim time, and (B) pool parties for private events, such

1 as birthdays, family gatherings, and employee outings. Fees for
2 swimming lessons, to participate in swim meets and other
3 competitions, or to join a swim team, club, or aquatic facility are
4 not retail sales under this subsection (15) (a) (xiii);

5 (xiv) Go-karting, bumper cars, and other motorized activities
6 where the seller provides the vehicle and the premises where the
7 buyer will operate the vehicle;

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

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

22 (xvii) Paintball and airsoft activities;

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

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

1 lands; and (C) permits or leases granted by an owner of private
2 timberland for recreational access to areas used primarily for
3 growing and harvesting timber; and

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

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

11 (i) Made for admission to, and rides or attractions at, fairs,
12 carnivals, and festivals. For the purposes of this subsection, fairs,
13 carnivals, and festivals are events that do not exceed (~~twenty-one~~)
14 21 days and a majority of the amusement rides, if any, are not
15 affixed to real property;

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

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

26 (iv) Made for day camps offered by a nonprofit organization or
27 state or local governmental entity that provide youth not older than
28 age (~~eighteen~~) 18, or that are focused on providing individuals
29 with disabilities or mental illness, the opportunity to participate
30 in a variety of supervised activities.

31 **PART III**

32 **REAL ESTATE EXCISE TAX**

33 **Sec. 10.** RCW 82.46.010 and 2015 2nd sp.s. c 10 s 1 are each
34 amended to read as follows:

35 (1) The legislative authority of any county or city must identify
36 in the adopted budget the capital projects funded in whole or in part
37 from the proceeds of the tax authorized in this section, and must

1 indicate that such tax is intended to be in addition to other funds
2 that may be reasonably available for such capital projects.

3 (2) (a) The legislative authority of any county or any city may
4 impose an excise tax on each sale of real property in the
5 unincorporated areas of the county for the county tax and in the
6 corporate limits of the city for the city tax at a rate not exceeding
7 one-quarter of one percent of the selling price. ~~((The))~~ Except as
8 provided in subsection (8) of this section, the revenues from this
9 tax must be used by any city or county with a population of ~~((five~~
10 ~~thousand))~~ 5,000 or less and any city or county that does not plan
11 under RCW 36.70A.040 for any capital purpose identified in a capital
12 improvements plan and local capital improvements, including those
13 listed in RCW 35.43.040.

14 (b) ~~((After))~~ Except as provided in subsection (8) of this
15 section, after April 30, 1992, revenues generated from the tax
16 imposed under this subsection (2) in counties over ~~((five thousand))~~
17 5,000 population and cities over ~~((five thousand))~~ 5,000 population
18 that are required or choose to plan under RCW 36.70A.040 must be used
19 solely for financing capital projects specified in a capital
20 facilities plan element of a comprehensive plan and housing
21 relocation assistance under RCW 59.18.440 and 59.18.450. However,
22 revenues (i) pledged by such counties and cities to debt retirement
23 prior to April 30, 1992, may continue to be used for that purpose
24 until the original debt for which the revenues were pledged is
25 retired, or (ii) committed prior to April 30, 1992, by such counties
26 or cities to a project may continue to be used for that purpose until
27 the project is completed.

28 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2),
29 the legislative authority of any county or any city may impose an
30 additional excise tax on each sale of real property in the
31 unincorporated areas of the county for the county tax and in the
32 corporate limits of the city for the city tax at a rate not exceeding
33 one-half of one percent of the selling price.

34 (4) Taxes imposed under this section must be collected from
35 persons who are taxable by the state under chapter 82.45 RCW upon the
36 occurrence of any taxable event within the unincorporated areas of
37 the county or within the corporate limits of the city, as the case
38 may be.

39 (5) Taxes imposed under this section must comply with all
40 applicable rules, regulations, laws, and court decisions regarding

1 real estate excise taxes as imposed by the state under chapter 82.45
2 RCW.

3 (6) The definitions in this subsection (6) apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "City" means any city or town.

6 (b) "Capital project" means those public works projects of a
7 local government for planning, acquisition, construction,
8 reconstruction, repair, replacement, rehabilitation, or improvement
9 of streets; roads; highways; sidewalks; street and road lighting
10 systems; traffic signals; bridges; domestic water systems; storm and
11 sanitary sewer systems; parks; recreational facilities; law
12 enforcement facilities; fire protection facilities; trails;
13 libraries; administrative facilities; judicial facilities; river
14 flood control projects; waterway flood control projects by those
15 jurisdictions that, prior to June 11, 1992, have expended funds
16 derived from the tax authorized by this section for such purposes;
17 until December 31, 1995, housing projects for those jurisdictions
18 that, prior to June 11, 1992, have expended or committed to expend
19 funds derived from the tax authorized by this section or the tax
20 authorized by RCW 82.46.035 for such purposes; and technology
21 infrastructure that is integral to the capital project.

22 (7) From July 22, 2011, until December 31, 2016, a city or county
23 may use the greater of (~~one hundred thousand dollars~~) \$100,000 or
24 (~~thirty-five~~) 35 percent of available funds under this section, but
25 not to exceed (~~one million dollars~~) \$1,000,000 per year, for the
26 operations and maintenance of existing capital projects as defined in
27 subsection (6) of this section.

28 (8) After the effective date of this section through December 31,
29 2023, a city or county may use the greater of \$100,000 or 35 percent
30 of available funds under this section for the operation of,
31 maintenance of, and service support for, existing capital projects,
32 including the provision of services to residents of affordable
33 housing or shelter units.

34 **Sec. 11.** RCW 82.46.015 and 2016 c 138 s 3 are each amended to
35 read as follows:

36 (1) ((A)) After the effective date of this section through
37 December 31, 2023, a city or county may use the greater of \$100,000
38 or 35 percent of available funds from revenues collected under RCW
39 82.46.010 for the maintenance of, operation of, and service support

1 for, existing capital projects, as defined in RCW 82.46.010, and
2 including the provision of services to residents of affordable
3 housing or shelter units.

4 (2) After December 31, 2023, a city or county that meets the
5 requirements of subsection ((2)) (3) of this section may use the
6 greater of ((one hundred thousand dollars)) \$100,000 or ((twenty-
7 five)) 25 percent of available funds, but not to exceed ((one million
8 dollars)) \$1,000,000 per year, from revenues collected under RCW
9 82.46.010 for the maintenance of capital projects, as defined in RCW
10 82.46.010 ((6) (b)).

11 ((2)) (3) A city or county may use revenues pursuant to
12 subsection ((1)) (2) of this section if:

13 (a) The city or county prepares a written report demonstrating
14 that it has or will have adequate funding from all sources of public
15 funding to pay for all capital projects, as defined in RCW 82.46.010,
16 identified in its capital facilities plan for the succeeding two-year
17 period. Cities or counties not required to prepare a capital
18 facilities plan may satisfy this provision by using a document that,
19 at a minimum, identifies capital project needs and available public
20 funding sources for the succeeding two-year period; and

21 (b) (i) The city or county has not enacted, after June 9, 2016:
22 Any requirement on the listing or sale of real property; or any
23 requirement on landlords, at the time of executing a lease, to
24 perform or provide physical improvements or modifications to real
25 property or fixtures, except if necessary to address an immediate
26 threat to health or safety; or

27 (ii) Any local requirement adopted by the city or county under
28 (b) (i) of this subsection is: Specifically authorized by RCW
29 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
30 specifically authorized by other state or federal law; or a seller or
31 landlord disclosure requirement pursuant to RCW 64.06.080.

32 ((3)) (4) The report prepared under subsection ((2)) (3) (a)
33 of this section must: (a) Include information necessary to determine
34 compliance with the requirements of subsection ((2)) (3) (a) of this
35 section; (b) identify how revenues collected under RCW 82.46.010 were
36 used by the city or county during the prior two-year period; (c)
37 identify how funds authorized under subsection ((1)) (2) of this
38 section will be used during the succeeding two-year period; and (d)
39 identify what percentage of funding for capital projects within the
40 city or county is attributable to revenues under RCW 82.46.010

1 compared to all other sources of capital project funding. The city or
2 county must prepare and adopt the report as part of its regular,
3 public budget process.

4 ~~((4))~~ (5) The authority to use funds as authorized in this
5 section is in addition to the authority to use funds pursuant to RCW
6 82.46.010(7), which remains in effect through December 31, 2016.

7 ~~((5))~~ (6) For purposes of this section, "maintenance" means the
8 use of funds for labor and materials that will preserve, prevent the
9 decline of, or extend the useful life of a capital project.
10 "Maintenance" does not include labor or material costs for routine
11 operations of a capital project.

12 **Sec. 12.** RCW 82.46.035 and 2019 c 73 s 2 are each amended to
13 read as follows:

14 (1) ~~((The))~~ Except for revenues used after the effective date of
15 this section through December 31, 2023, as provided in subsection (3)
16 of this section, the legislative authority of any county or city must
17 identify in the adopted budget the capital projects funded in whole
18 or in part from the proceeds of the tax authorized in this section,
19 and must indicate that such tax is intended to be in addition to
20 other funds that may be reasonably available for such capital
21 projects.

22 (2) The legislative authority of any county or any city that
23 plans under RCW 36.70A.040(1) may impose an additional excise tax on
24 each sale of real property in the unincorporated areas of the county
25 for the county tax and in the corporate limits of the city for the
26 city tax at a rate not exceeding one-quarter of one percent of the
27 selling price. Any county choosing to plan under RCW 36.70A.040(2)
28 and any city within such a county may only adopt an ordinance
29 imposing the excise tax authorized by this section if the ordinance
30 is first authorized by a proposition approved by a majority of the
31 voters of the taxing district voting on the proposition at a general
32 election held within the district or at a special election within the
33 taxing district called by the district for the purpose of submitting
34 such proposition to the voters.

35 (3) Revenues generated from the tax imposed under subsection (2)
36 of this section must be used by such counties and cities solely for
37 financing capital projects specified in a capital facilities plan
38 element of a comprehensive plan, except that the greater of \$100,000
39 or 35 percent of revenues may additionally be used for the operation

1 of, maintenance of, and service support for, existing capital
2 projects after the effective date of this section through December
3 31, 2023. However, revenues (a) pledged by such counties and cities
4 to debt retirement prior to March 1, 1992, may continue to be used
5 for that purpose until the original debt for which the revenues were
6 pledged is retired, or (b) committed prior to March 1, 1992, by such
7 counties or cities to a project may continue to be used for that
8 purpose until the project is completed.

9 (4) Revenues generated by the tax imposed by this section must be
10 deposited in a separate account after December 31, 2023.

11 (5) As used in this section, "city" means any city or town and
12 "capital project" means those public works projects of a local
13 government for:

14 (a) Planning, acquisition, construction, reconstruction, repair,
15 replacement, rehabilitation, or improvement of streets, roads,
16 highways, sidewalks, street and road lighting systems, traffic
17 signals, bridges, domestic water systems, storm and sanitary sewer
18 systems;

19 (b) Planning, construction, reconstruction, repair,
20 rehabilitation, or improvement of parks; and

21 (c) Until January 1, 2026, planning, acquisition, construction,
22 reconstruction, repair, replacement, rehabilitation, or improvement
23 of facilities for those experiencing homelessness and affordable
24 housing projects.

25 (6) A county or city may use the greater of (~~one hundred~~
26 ~~thousand dollars~~) \$100,000 or (~~twenty-five~~) 25 percent of
27 available funds, but not to exceed (~~one million dollars~~)
28 \$1,000,000, for capital projects as defined in subsection (5)(c) of
29 this section. The limits in this subsection do not apply to any
30 county or city that used revenue under this section for the
31 acquisition, construction, improvement, or rehabilitation of
32 facilities to provide housing for the homeless prior to June 30,
33 2019.

34 (7) A county or city using funds for uses in subsection (5)(c) of
35 this section must document in its plan under RCW 36.70A.070(3) that
36 it has funds during the next two years for capital projects in
37 subsection (5)(a) of this section.

38 (8) When the governor files a notice of noncompliance under RCW
39 36.70A.340 with the secretary of state and the appropriate county or
40 city, the county or city's authority to impose the additional excise

1 tax under this section is temporarily rescinded until the governor
2 files a subsequent notice rescinding the notice of noncompliance.

3 **Sec. 13.** RCW 82.46.037 and 2019 c 73 s 3 are each amended to
4 read as follows:

5 (1) A city or county that meets the requirements of subsection
6 (2) of this section may use the greater of (~~one hundred thousand~~
7 ~~dollars~~) \$100,000 or (~~twenty-five~~) 25 percent of available funds,
8 but not to exceed (~~one million dollars~~) \$1,000,000 per year, except
9 for the period from the effective date of this section through
10 December 31, 2023, when the greater of \$100,000 or 35 percent may be
11 used from revenues collected under RCW 82.46.035 for:

12 (a) The maintenance of capital projects, as defined in RCW
13 82.46.035(5); (~~and~~)

14 (b) The planning, acquisition, construction, reconstruction,
15 repair, replacement, rehabilitation, improvement, or maintenance of
16 capital projects as defined in RCW 82.46.010(6)(b) that are not also
17 included within the definition of capital projects in RCW
18 82.46.035(5); and

19 (c) The operation of, and service support for, existing capital
20 projects as included in the definition of capital project in RCW
21 82.46.035(5) and 82.46.010(6)(b), from the effective date of this
22 section through December 31, 2023.

23 (2) A city or county may use revenues pursuant to subsection (1)
24 of this section after the effective date of this section through
25 December 31, 2023. Thereafter, a city or county may use revenues
26 pursuant to subsection (1) of this section if:

27 (a) The city or county prepares a written report demonstrating
28 that it has or will have adequate funding from all sources of public
29 funding to pay for all capital projects, as defined in RCW
30 82.46.035(5), identified in its capital facilities plan for the
31 succeeding two-year period; and

32 (b) (i) The city or county has not enacted, after June 9, 2016,
33 any requirement on the listing or sale of real property; or any
34 requirement on landlords, at the time of executing a lease, to
35 perform or provide physical improvements or modifications to real
36 property or fixtures, except if necessary to address an immediate
37 threat to health or safety;

38 (ii) Any local requirement adopted by the city or county under
39 (b) (i) of this subsection is: Specifically authorized by RCW

1 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
2 specifically authorized by other state or federal law; or a seller or
3 landlord disclosure requirement pursuant to RCW 64.06.080; or

4 (iii) For a city or county using funds under subsection (1)(b) of
5 this section, the requirements of this subsection apply, except that
6 the date for such enactment under (b)(i) of this subsection is ninety
7 days after October 19, 2017.

8 (3) The report prepared under subsection (2)(a) of this section
9 must: (a) Include information necessary to determine compliance with
10 the requirements of subsection (2)(a) of this section; (b) identify
11 how revenues collected under RCW 82.46.035 were used by the city or
12 county during the prior two-year period; (c) identify how funds
13 authorized under subsection (1) of this section will be used during
14 the succeeding two-year period; and (d) identify what percentage of
15 funding for capital projects within the city or county is
16 attributable to revenues under RCW 82.46.035 compared to all other
17 sources of capital project funding. The city or county must prepare
18 and adopt the report as part of its regular, public budget process.

19 (4) For purposes of this section, "maintenance" means the use of
20 funds for labor and materials that will preserve, prevent the decline
21 of, or extend the useful life of a capital project. "Maintenance"
22 does not include labor or material costs for routine operations of a
23 capital project.

24 **PART IV**

25 **LEVY FLEXIBILITY**

26 **Sec. 14.** RCW 84.55.050 and 2018 c 46 s 3 are each amended to
27 read as follows:

28 (1) Subject to any otherwise applicable statutory dollar rate
29 limitations, regular property taxes may be levied by or for a taxing
30 district in an amount exceeding the limitations provided for in this
31 chapter if such levy is authorized by a proposition approved by a
32 majority of the voters of the taxing district voting on the
33 proposition at a general election held within the district or at a
34 special election within the taxing district called by the district
35 for the purpose of submitting such proposition to the voters. Any
36 election held pursuant to this section shall be held not more than
37 (~~twelve~~) 12 months prior to the date on which the proposed levy is
38 to be made, except as provided in subsection (2) of this section. The

1 ballot of the proposition shall state the dollar rate proposed and
2 shall clearly state the conditions, if any, which are applicable
3 under subsection (4) of this section.

4 (2)(a) Subject to statutory dollar limitations, a proposition
5 placed before the voters under this section may authorize annual
6 increases in levies for multiple consecutive years, up to six
7 consecutive years, during which period each year's authorized maximum
8 legal levy shall be used as the base upon which an increased levy
9 limit for the succeeding year is computed, but the ballot proposition
10 must state the dollar rate proposed only for the first year of the
11 consecutive years and must state the limit factor, or a specified
12 index to be used for determining a limit factor, such as the consumer
13 price index, which need not be the same for all years, by which the
14 regular tax levy for the district may be increased in each of the
15 subsequent consecutive years. Elections for this purpose must be held
16 at a primary or general election. The title of each ballot measure
17 must state the limited purposes for which the proposed annual
18 increases during the specified period of up to six consecutive years
19 shall be used.

20 (b)(i) Except as otherwise provided in this subsection (2)(b),
21 funds raised by a levy under this subsection may not supplant
22 existing funds used for the limited purpose specified in the ballot
23 title. For purposes of this subsection, existing funds means the
24 actual operating expenditures for the calendar year in which the
25 ballot measure is approved by voters. Actual operating expenditures
26 excludes lost federal funds, lost or expired state grants or loans,
27 extraordinary events not likely to reoccur, changes in contract
28 provisions beyond the control of the taxing district receiving the
29 services, and major nonrecurring capital expenditures.

30 (ii) The supplanting limitations in (b)(i) of this subsection do
31 not apply to levies approved by the voters in calendar years 2009,
32 2010, ~~((and))~~ 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and
33 2022, in any county with a population of ~~((one million five hundred~~
34 ~~thousand))~~ 1,500,000 or more. This subsection (2)(b)(ii) only applies
35 to levies approved by the voters after July 26, 2009.

36 (iii) The supplanting limitations in (b)(i) of this subsection do
37 not apply to levies approved by the voters in calendar year 2009 and
38 thereafter in any county with a population less than ~~((one million~~
39 ~~five hundred thousand))~~ 1,500,000. This subsection (2)(b)(iii) only
40 applies to levies approved by the voters after July 26, 2009.

1 (3) After a levy authorized pursuant to this section is made, the
2 dollar amount of such levy may not be used for the purpose of
3 computing the limitations for subsequent levies provided for in this
4 chapter, unless the ballot proposition expressly states that the levy
5 made under this section will be used for this purpose.

6 (4) If expressly stated, a proposition placed before the voters
7 under subsection (1) or (2) of this section may:

8 (a) Use the dollar amount of a levy under subsection (1) of this
9 section, or the dollar amount of the final levy under subsection (2)
10 of this section, for the purpose of computing the limitations for
11 subsequent levies provided for in this chapter;

12 (b) Limit the period for which the increased levy is to be made
13 under (a) of this subsection;

14 (c) Limit the purpose for which the increased levy is to be made
15 under (a) of this subsection, but if the limited purpose includes
16 making redemption payments on bonds;

17 (i) For the county in which the state capitol is located, the
18 period for which the increased levies are made may not exceed
19 (~~twenty-five~~) 25 years; and

20 (ii) For districts other than a district under (c)(i) of this
21 subsection, the period for which the increased levies are made may
22 not exceed nine years;

23 (d) Set the levy or levies at a rate less than the maximum rate
24 allowed for the district;

25 (e) Provide that the exemption authorized by RCW 84.36.381 will
26 apply to the levy of any additional regular property taxes authorized
27 by voters; or

28 (f) Include any combination of the conditions in this subsection.

29 (5) Except as otherwise expressly stated in an approved ballot
30 measure under this section, subsequent levies shall be computed as
31 if:

32 (a) The proposition under this section had not been approved; and

33 (b) The taxing district had made levies at the maximum rates
34 which would otherwise have been allowed under this chapter during the
35 years levies were made under the proposition.

36 **PART V**

37 **UTILITY LIEN FLEXIBILITY**

1 **Sec. 15.** RCW 35.21.290 and 2010 c 135 s 2 are each amended to
2 read as follows:

3 (1) Except as provided in RCW 35.21.217(4) and in subsection (2)
4 of this section, cities and towns owning their own waterworks, or
5 electric light or power plants shall have a lien against the premises
6 to which water, electric light, or power services were furnished for
7 four months charges therefor due or to become due, but not for any
8 charges more than four months past due.

9 (2) The lien provided for in subsection (1) of this section may
10 apply to charges more than four months past due, if the city or town
11 has been unable to pursue collection or a lien against the premises
12 to which water, electric light, or power services were furnished due
13 to an emergency declaration by the governor. A lien may be imposed
14 after the expiration of the emergency declaration that prevented
15 collection. The period in which the lien may be imposed is the later
16 of:

17 (a) Three months from the expiration of the emergency declaration
18 preventing collection or a lien; or

19 (b) Three months of the ratepayer's failure to abide by the terms
20 of an agreed payment plan, if the payment plan for past due charges
21 would have allowed the ratepayer to repay the past due charges over a
22 period of six months or more.

23 **Sec. 16.** RCW 35.67.210 and 1965 c 7 s 35.67.210 are each amended
24 to read as follows:

25 ~~((The))~~ (1) Except as provided for in subsection (2) of this
26 section, the sewerage lien shall be effective for a total of not to
27 exceed six months' delinquent charges without the necessity of any
28 writing or recording. In order to make such lien effective for more
29 than six months' charges the city or town treasurer, clerk, or
30 official charged with the administration of the affairs of the
31 utility shall cause to be filed for record in the office of the
32 county auditor of the county in which such city or town is located, a
33 notice in substantially the following form:

34 "Sewerage lien notice

35 City (or town) of.....

36 vs.

37 reputed owner.

1 Notice is hereby given that the city (or town) of has
2 and claims a lien for sewer charges against the following described
3 premises situated in county, Washington, to wit:

4 (here insert legal description of premises)

5 Said lien is claimed for not exceeding six months such charges
6 and interest now delinquent, amount to \$., and is also
7 claimed for future sewerage charges against said premises.

8 Dated.....

9 City (or town) of.....

10 By..... "

11 The lien notice may be signed by the city or town treasurer or
12 clerk or other official in charge of the administration of the
13 utility. The lien notice shall be recorded as prescribed by law for
14 the recording of mechanics' liens.

15 (2) A sewage lien may exceed six months' delinquent charges
16 without the necessity of any writing or recording if collection of
17 charges was impacted by the declaration of an emergency by the
18 governor. In such circumstances, a lien may be filed for all charges
19 due during the period covered by the declaration and may be effective
20 for six months after the expiration of the declaration of the
21 emergency.

22 NEW SECTION. Sec. 17. Section 9 of this act takes effect July
23 1, 2022.

24 NEW SECTION. Sec. 18. Section 8 of this act expires July 1,
25 2022.

26 NEW SECTION. Sec. 19. Except for section 9 of this act, this
27 act is necessary for the immediate preservation of the public peace,
28 health, or safety, or support of the state government and its
29 existing public institutions, and takes effect immediately.

--- END ---