
SUBSTITUTE HOUSE BILL 1069

State of Washington

67th Legislature

2021 Regular Session

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

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))~~ (5) Money received by a county under subsection (1) of
25 this section must be shared between the county and the cities as
26 follows: ~~((Sixty))~~ 60 percent must be retained by the county and
27 ~~((forty))~~ 40 percent must be distributed on a per capita basis to
28 cities in the county.

29 ~~((7))~~ (6) Tax proceeds received by a city imposing a tax under
30 this 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, or
17 capital projects necessary to the operation or delivery of chemical
18 dependency or mental health treatment programs or services, and for
19 the operation or delivery of therapeutic court programs and services.
20 For the purposes of this section, "programs and services" includes,
21 but is not limited to, treatment services, case management,
22 transportation, and housing that are a component of a coordinated
23 chemical dependency or mental health treatment program or service.
24 Every county that authorizes the tax provided in this section shall,
25 and every other county may, establish and operate a therapeutic court
26 component for dependency proceedings designed to be effective for the
27 court's size, location, and resources.

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

31 (a) For a county with a population larger than twenty-five
32 thousand or a city with a population over thirty thousand, which
33 initially imposed the tax authorized under this section prior to
34 January 1, 2012, a portion of moneys collected under this section may
35 be used to supplant existing funding for these purposes as follows:
36 Up to fifty percent may be used to supplant existing funding in
37 calendar years 2011-2012; up to forty percent may be used to supplant
38 existing funding in calendar year 2013; up to thirty percent may be
39 used to supplant existing funding in calendar year 2014; up to twenty
40 percent may be used to supplant existing funding in calendar year

1 2015; and up to ten percent may be used to supplant existing funding
2 in calendar year 2016;

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

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

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

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

29 **PART II**
30 **LODGING TAX**

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

33 (1)(a) "Sale at retail" or "retail sale" means every sale of
34 tangible personal property (including articles produced, fabricated,
35 or imprinted) to all persons irrespective of the nature of their
36 business and including, among others, without limiting the scope
37 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, 18.57A, 18.71, or
34 18.71A 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 ((~~43.215.010~~)) 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 **Sec. 9.** RCW 82.04.050 and 2020 c 80 s 58 are each amended to
32 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (f) The furnishing of lodging and all other services by a hotel,
38 rooming house, tourist court, motel, trailer camp, and the granting
39 of any similar license to use real property, as distinguished from
40 the renting or leasing of real property, and it is presumed that the

1 occupancy of real property for a continuous period of one month or
2 more constitutes a rental or lease of real property and not a mere
3 license to use or enjoy the same. For the purposes of this
4 subsection, it is presumed that the sale of and charge made for the
5 furnishing of lodging for a continuous period of one month or more to
6 a person is a rental or lease of real property and not a mere license
7 to enjoy the same. For the purposes of this section, it is presumed
8 that the sale of and charge made for the furnishing of lodging
9 offered regularly for public occupancy for periods of less than a
10 month constitutes a license to use or enjoy the property subject to
11 sales and use tax and not a rental or lease of property;

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

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

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

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

29 (b) Credit bureau services;

30 (c) Automobile parking and storage garage services;

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

36 (e) Service charges associated with tickets to professional
37 sporting events;

38 (f) The following personal services: Tanning salon services,
39 tattoo parlor services, steam bath services, turkish bath services,
40 escort services, and dating services; and

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

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

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

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

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

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

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

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

39 (G) The provision of access to an athletic or fitness facility by
40 an educational institution to its students and staff. However,

1 charges made by an educational institution to its alumni or other
2 members of the public for the use of any of the educational
3 institution's athletic or fitness facilities are a retail sale under
4 this subsection (3)(g). For purposes of this subsection
5 (3)(g)(ii)(G), "educational institution" has the same meaning as in
6 RCW 82.04.170;

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

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

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

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

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

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

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

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

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

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

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

18 (i) Custom software; or

19 (ii) The customization of prewritten computer software.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (10) The term does not include the sale of or charge made for
36 labor and services rendered in respect to the building, repairing, or
37 improving of any street, place, road, highway, easement, right-of-
38 way, mass public transportation terminal or parking facility, bridge,
39 tunnel, or trestle which is owned by a municipal corporation or
40 political subdivision of the state or by the United States and which

1 is used or to be used primarily for foot or vehicular traffic
2 including mass transportation vehicles of any kind.

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

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

36 (13) The term does not include the sale of or charge made for
37 labor, services, or tangible personal property pursuant to agreements
38 providing maintenance services for bus, rail, or rail fixed guideway
39 equipment when a regional transit authority is the recipient of the

1 labor, services, or tangible personal property, and a transit agency,
2 as defined in RCW 81.104.015, performs the labor or services.

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

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

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

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

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

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

36 (iv) Access to amusement park, theme park, and water park
37 facilities, including but not limited to charges for admission and
38 locker or cabana rentals. Discrete charges for rides or other
39 attractions or entertainment that are in addition to the charge for
40 admission are not a retail sale under this subsection (15)(a)(iv).

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

7 (v) Batting cage activities;

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

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

16 (viii) Day trips for sightseeing purposes;

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

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

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

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

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

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

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

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

18 (xvii) Paintball and airsoft activities;

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

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

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

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

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

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

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

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

28 **PART III**

29 **REAL ESTATE EXCISE TAX**

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

32 (1) The legislative authority of any county or city must identify
33 in the adopted budget the capital projects funded in whole or in part
34 from the proceeds of the tax authorized in this section, and must
35 indicate that such tax is intended to be in addition to other funds
36 that may be reasonably available for such capital projects.

37 (2)(a) The legislative authority of any county or any city may
38 impose an excise tax on each sale of real property in the

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

10 (b) ((After)) Except as provided in subsection (8) of this
11 section, after April 30, 1992, revenues generated from the tax
12 imposed under this subsection (2) in counties over ((five thousand))
13 5,000 population and cities over ((five thousand)) 5,000 population
14 that are required or choose to plan under RCW 36.70A.040 must be used
15 solely for financing capital projects specified in a capital
16 facilities plan element of a comprehensive plan and housing
17 relocation assistance under RCW 59.18.440 and 59.18.450. However,
18 revenues (i) pledged by such counties and cities to debt retirement
19 prior to April 30, 1992, may continue to be used for that purpose
20 until the original debt for which the revenues were pledged is
21 retired, or (ii) committed prior to April 30, 1992, by such counties
22 or cities to a project may continue to be used for that purpose until
23 the project is completed.

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

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

35 (5) Taxes imposed under this section must comply with all
36 applicable rules, regulations, laws, and court decisions regarding
37 real estate excise taxes as imposed by the state under chapter 82.45
38 RCW.

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

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

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

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

24 (8) After the effective date of this section through December 31,
25 2023, a city or county may use the greater of \$100,000 or 35 percent
26 of available funds under this section for the operation of,
27 maintenance of, and service support for, existing capital projects,
28 including the provision of services to residents of affordable
29 housing or shelter units.

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

32 (1) ((A)) After the effective date of this section through
33 December 31, 2023, a city or county may use the greater of \$100,000
34 or 35 percent of available funds from revenues collected under RCW
35 82.46.010 for the maintenance of, operation of, and service support
36 for, existing capital projects, as defined in RCW 82.46.010, and
37 including the provision of services to residents of affordable
38 housing or shelter units.

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

8 ~~((2))~~ (3) A city or county may use revenues pursuant to
9 subsection ~~((1))~~ (2) of this section if:

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

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

24 (ii) Any local requirement adopted by the city or county under
25 (b) (i) of this subsection is: Specifically authorized by RCW
26 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
27 specifically authorized by other state or federal law; or a seller or
28 landlord disclosure requirement pursuant to RCW 64.06.080.

29 ~~((3))~~ (4) The report prepared under subsection ~~((2))~~ (3) (a)
30 of this section must: (a) Include information necessary to determine
31 compliance with the requirements of subsection ~~((2))~~ (3) (a) of this
32 section; (b) identify how revenues collected under RCW 82.46.010 were
33 used by the city or county during the prior two-year period; (c)
34 identify how funds authorized under subsection ~~((1))~~ (2) of this
35 section will be used during the succeeding two-year period; and (d)
36 identify what percentage of funding for capital projects within the
37 city or county is attributable to revenues under RCW 82.46.010
38 compared to all other sources of capital project funding. The city or
39 county must prepare and adopt the report as part of its regular,
40 public budget process.

1 (~~(4)~~) (5) The authority to use funds as authorized in this
2 section is in addition to the authority to use funds pursuant to RCW
3 82.46.010(7), which remains in effect through December 31, 2016.

4 (~~(5)~~) (6) For purposes of this section, "maintenance" means the
5 use of funds for labor and materials that will preserve, prevent the
6 decline of, or extend the useful life of a capital project.
7 "Maintenance" does not include labor or material costs for routine
8 operations of a capital project.

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

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

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

32 (3) Revenues generated from the tax imposed under subsection (2)
33 of this section must be used by such counties and cities solely for
34 financing capital projects specified in a capital facilities plan
35 element of a comprehensive plan, except that the greater of \$100,000
36 or 35 percent of revenues may additionally be used for the operation
37 of, maintenance of, and service support for, existing capital
38 projects after the effective date of this section through December
39 31, 2023. However, revenues (a) pledged by such counties and cities

1 to debt retirement prior to March 1, 1992, may continue to be used
2 for that purpose until the original debt for which the revenues were
3 pledged is retired, or (b) committed prior to March 1, 1992, by such
4 counties or cities to a project may continue to be used for that
5 purpose until the project is completed.

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

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

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

16 (b) Planning, construction, reconstruction, repair,
17 rehabilitation, or improvement of parks; and

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

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

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

35 (8) When the governor files a notice of noncompliance under RCW
36 36.70A.340 with the secretary of state and the appropriate county or
37 city, the county or city's authority to impose the additional excise
38 tax under this section is temporarily rescinded until the governor
39 files a subsequent notice rescinding the notice of noncompliance.

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

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

10 (a) The maintenance of capital projects, as defined in RCW
11 82.46.035(5); (~~and~~)

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

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

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

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

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

36 (ii) Any local requirement adopted by the city or county under
37 (b)(i) of this subsection is: Specifically authorized by RCW
38 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
39 specifically authorized by other state or federal law; or a seller or
40 landlord disclosure requirement pursuant to RCW 64.06.080; or

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

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

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

21 **PART IV**
22 **LEVY FLEXIBILITY**

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

25 (1) Subject to any otherwise applicable statutory dollar rate
26 limitations, regular property taxes may be levied by or for a taxing
27 district in an amount exceeding the limitations provided for in this
28 chapter if such levy is authorized by a proposition approved by a
29 majority of the voters of the taxing district voting on the
30 proposition at a general election held within the district or at a
31 special election within the taxing district called by the district
32 for the purpose of submitting such proposition to the voters. Any
33 election held pursuant to this section shall be held not more than
34 (~~twelve~~) 12 months prior to the date on which the proposed levy is
35 to be made, except as provided in subsection (2) of this section. The
36 ballot of the proposition shall state the dollar rate proposed and
37 shall clearly state the conditions, if any, which are applicable
38 under subsection (4) of this section.

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

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

27 (ii) The supplanting limitations in (b) (i) of this subsection do
28 not apply to levies approved by the voters in calendar years 2009,
29 2010, ~~((and))~~ 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and
30 2022, in any county with a population of ~~((one million five hundred~~
31 ~~thousand))~~ 1,500,000 or more. This subsection (2) (b) (ii) only applies
32 to levies approved by the voters after July 26, 2009.

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

38 (3) After a levy authorized pursuant to this section is made, the
39 dollar amount of such levy may not be used for the purpose of
40 computing the limitations for subsequent levies provided for in this

1 chapter, unless the ballot proposition expressly states that the levy
2 made under this section will be used for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

33 PART V

34 UTILITY LIEN FLEXIBILITY

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

37 (1) Except as provided in RCW 35.21.217(4) and in subsection (2)
38 of this section, cities and towns owning their own waterworks, or

1 electric light or power plants shall have a lien against the premises
2 to which water, electric light, or power services were furnished for
3 four months charges therefor due or to become due, but not for any
4 charges more than four months past due.

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

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

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

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

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

30 "Sewerage lien notice
31 City (or town) of.....
32 vs.
33 reputed owner.

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

37 (here insert legal description of premises)

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

4 Dated.....
5 City (or town) of.....
6 By..... "

7 The lien notice may be signed by the city or town treasurer or
8 clerk or other official in charge of the administration of the
9 utility. The lien notice shall be recorded as prescribed by law for
10 the recording of mechanics' liens.

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

18 NEW SECTION. Sec. 17. Section 9 of this act takes effect July
19 1, 2022.

20 NEW SECTION. Sec. 18. Section 8 of this act expires July 1,
21 2022.

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

--- END ---