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HOUSE BILL 1657

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State of Washington

56th Legislature

1999 Regular Session

By Representative Thomas

Read first time 02/02/1999. Referred to Committee on Finance.

1 AN ACT Relating to telecommunication taxes; amending RCW 82.04.065,  
2 82.04.060, 82.04.460, 82.08.020, 82.08.0289, 82.12.010, 82.12.020,  
3 82.12.035, 82.14.020, 82.14.030, 82.14.045, 82.14.0485, 82.14.0494,  
4 82.14.370, 81.104.170, 82.16.010, 82.16.020, 35.21.710, 35.21.711,  
5 35.21.714, 35.21.715, 35.21.860, 35.21.865, 35.21.870, and 35A.82.050;  
6 reenacting and amending RCW 82.04.050 and 82.04.190; adding a new  
7 section to chapter 82.08 RCW; adding a new section to chapter 82.14  
8 RCW; creating a new section; repealing RCW 35.21.712, 35.21.871,  
9 35A.82.055, 35A.82.060, 35A.82.065, and 35A.82.070; and providing an  
10 effective date.

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

12 PART I

13 GENERAL DEFINITIONS AND BUSINESS AND OCCUPATION TAX

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

16 (1) (~~"Competitive telephone service" means the providing by any~~  
17 ~~person of telecommunications equipment or apparatus, or service related~~  
18 ~~to that equipment or apparatus such as repair or maintenance service,~~

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

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

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

33 (4) ~~"Telephone business" means the business of providing network~~  
34 ~~telephone service, as defined in subsection (2) of this section. It~~  
35 ~~includes cooperative or farmer line telephone companies or associations~~  
36 ~~operating an exchange.))~~ "Cable service" is defined as provided in the  
37 federal telecommunications act of 1996.

1       **Sec. 102.** RCW 82.04.050 and 1998 c 332 s 2, 1998 c 315 s 1, 1998  
2 c 308 s 1, and 1998 c 275 s 1 are each reenacted and amended to read as  
3 follows:

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

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

14       (b) Installs, repairs, cleans, alters, imprints, improves,  
15 constructs, or decorates real or personal property of or for consumers,  
16 if such tangible personal property becomes an ingredient or component  
17 of such real or personal property without intervening use by such  
18 person; or

19       (c) Purchases for the purpose of consuming the property purchased  
20 in producing for sale a new article of tangible personal property or  
21 substance, of which such property becomes an ingredient or component or  
22 is a chemical used in processing, when the primary purpose of such  
23 chemical is to create a chemical reaction directly through contact with  
24 an ingredient of a new article being produced for sale; or

25       (d) Purchases for the purpose of consuming the property purchased  
26 in producing ferrosilicon which is subsequently used in producing  
27 magnesium for sale, if the primary purpose of such property is to  
28 create a chemical reaction directly through contact with an ingredient  
29 of ferrosilicon(~~(; or~~

30       ~~(e) Purchases for the purpose of providing the property to~~  
31 ~~consumers as part of competitive telephone service, as defined in RCW~~  
32 ~~82.04.065)).~~

33       The term shall include every sale of tangible personal property  
34 which is used or consumed or to be used or consumed in the performance  
35 of any activity classified as a "sale at retail" or "retail sale" even  
36 though such property is resold or utilized as provided in (a), (b),  
37 (c), or (d)(~~(, or (e))~~) of this subsection following such use. The  
38 term also means every sale of tangible personal property to persons

1 engaged in any business which is taxable under RCW 82.04.280 (2) and  
2 (7) and 82.04.290.

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

6 (a) The installing, repairing, cleaning, altering, imprinting, or  
7 improving of tangible personal property of or for consumers, including  
8 charges made for the mere use of facilities in respect thereto, but  
9 excluding charges made for the use of coin-operated laundry facilities  
10 when such facilities are situated in an apartment house, rooming house,  
11 or mobile home park for the exclusive use of the tenants thereof, and  
12 also excluding sales of laundry service to nonprofit health care  
13 facilities, and excluding services rendered in respect to live animals,  
14 birds and insects;

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

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

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

1 repairing, furnace or septic tank cleaning, snow removal or  
2 sandblasting;

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

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

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

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

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

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

33 (c) Credit bureau services;

34 (d) Automobile parking and storage garage services;

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

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

3 (g) The following personal services: Physical fitness services,  
4 tanning salon services, tattoo parlor services, steam bath services,  
5 turkish bath services, escort services, and dating services.

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

9 (5) The term shall also include the providing of ((telephone))  
10 telecommunication service(~~(, as defined in RCW 82.04.065,)~~) to  
11 consumers.

12 (6) The term shall also include the sale of canned software other  
13 than a sale to a person who presents a resale certificate under RCW  
14 82.04.470, regardless of the method of delivery to the end user, but  
15 shall not include custom software or the customization of canned  
16 software.

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

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

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

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

20 **Sec. 103.** RCW 82.04.060 and 1998 c 332 s 5 are each amended to  
21 read as follows:

22 "Sale at wholesale" or "wholesale sale" means any of the following  
23 when not a sale at retail: (1) Any sale of tangible personal property;  
24 (2) any sale of amusement or recreation services as defined in RCW  
25 82.04.050(3)(a); (3) any sale of canned software; or (4) any sale of  
26 (~~telephone service as defined in RCW 82.04.065, which is not a sale at~~  
27 ~~retail and~~) telecommunication service. "Sale at wholesale" or  
28 "wholesale sale" also means any charge made for labor and services  
29 rendered for persons who are not consumers, in respect to real or  
30 personal property, if such charge is expressly defined as a retail sale  
31 by RCW 82.04.050 when rendered to or for consumers: PROVIDED, That the  
32 term "real or personal property" as used in this section shall not  
33 include any natural products named in RCW 82.04.100.

34 **Sec. 104.** RCW 82.04.190 and 1998 c 332 s 6 and 1998 c 308 s 2 are  
35 each reenacted and amended to read as follows:

36 "Consumer" means the following:

1 (1) Any person who purchases, acquires, owns, holds, or uses any  
2 article of tangible personal property irrespective of the nature of the  
3 person's business and including, among others, without limiting the  
4 scope hereof, persons who install, repair, clean, alter, improve,  
5 construct, or decorate real or personal property of or for consumers  
6 other than for the purpose (a) of resale as tangible personal property  
7 in the regular course of business or (b) of incorporating such property  
8 as an ingredient or component of real or personal property when  
9 installing, repairing, cleaning, altering, imprinting, improving,  
10 constructing, or decorating such real or personal property of or for  
11 consumers or (c) of consuming such property in producing for sale a new  
12 article of tangible personal property or a new substance, of which such  
13 property becomes an ingredient or component or as a chemical used in  
14 processing, when the primary purpose of such chemical is to create a  
15 chemical reaction directly through contact with an ingredient of a new  
16 article being produced for sale or (d) purchases for the purpose of  
17 consuming the property purchased in producing ferrosilicon which is  
18 subsequently used in producing magnesium for sale, if the primary  
19 purpose of such property is to create a chemical reaction directly  
20 through contact with an ingredient of ferrosilicon;

21 (2)(a) Any person engaged in any business activity taxable under  
22 RCW 82.04.290; (b) any person who purchases, acquires, or uses any  
23 (~~telephone service as defined in RCW 82.04.065~~) telecommunication  
24 service, other than for resale in the regular course of business; (c)  
25 any person who purchases, acquires, or uses any amusement and  
26 recreation service defined in RCW 82.04.050(3)(a), other than for  
27 resale in the regular course of business; and (d) any person who is an  
28 end user of software;

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



1 tunnel, or trestle by installing, placing or spreading the property in  
2 or upon the right of way of such street, place, road, highway,  
3 easement, bridge, tunnel, or trestle or in or upon the site of such  
4 mass public transportation terminal or parking facility;

5 (4) Any person who is an owner, lessee or has the right of  
6 possession to or an easement in real property which is being  
7 constructed, repaired, decorated, improved, or otherwise altered by a  
8 person engaged in business, excluding only (a) municipal corporations  
9 or political subdivisions of the state in respect to labor and services  
10 rendered to their real property which is used or held for public road  
11 purposes, and (b) the United States, instrumentalities thereof, and  
12 county and city housing authorities created pursuant to chapter 35.82  
13 RCW in respect to labor and services rendered to their real property.  
14 Nothing contained in this or any other subsection of this definition  
15 shall be construed to modify any other definition of "consumer";

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

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

34 (7) Any person who is a lessor of machinery and equipment, the  
35 rental of which is exempt from the tax imposed by RCW 82.08.020 under  
36 RCW 82.08.02565, with respect to the sale of or charge made for  
37 tangible personal property consumed in respect to repairing the  
38 machinery and equipment, if the tangible personal property has a useful  
39 life of less than one year. Nothing contained in this or any other

1 subsection of this section shall be construed to modify any other  
2 definition of "consumer";

3 (8) Any person engaged in the business of cleaning up for the  
4 United States, or its instrumentalities, radioactive waste and other  
5 byproducts of weapons production and nuclear research and development;  
6 and

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

10 **Sec. 105.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to  
11 read as follows:

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

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

33 (3) The department shall by rule provide a method or methods of  
34 apportioning or allocating gross income derived from sales of  
35 (~~telephone~~) telecommunication services taxed under this chapter, if  
36 the gross proceeds of sales subject to tax under this chapter do not  
37 fairly represent the extent of the taxpayer's income attributable to  
38 this state. The rules shall be, so far as feasible, consistent with

1 the methods of apportionment contained in this section and shall  
2 require the consideration of those facts, circumstances, and  
3 apportionment factors as will result in an equitable and  
4 constitutionally permissible division of the services.

5 **PART II**

6 **STATE SALES AND USE TAXES**

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

9 For purposes of this chapter, "telecommunication service" is  
10 defined as provided in chapter 82.04 RCW.

11 **Sec. 202.** RCW 82.08.020 and 1998 c 321 s 36 (Referendum Bill No.  
12 49) are each amended to read as follows:

13 (1) There is levied and there shall be collected a tax on each  
14 retail sale in this state. The tax is equal to five and five-tenths  
15 percent of the selling price for sales of telecommunication service.  
16 The tax is equal to six and five-tenths percent of the selling price  
17 for other sales.

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

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

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

28 **Sec. 203.** RCW 82.08.0289 and 1983 2nd ex.s. c 3 s 30 are each  
29 amended to read as follows:

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

32 ~~(a) Network telephone service, other than toll service, to~~  
33 ~~residential customers.~~

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

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

5       ~~(a) "Network telephone service" has the meaning given in RCW~~  
6 ~~82.04.065.~~

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

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

11       **Sec. 204.** RCW 82.12.010 and 1994 c 93 s 1 are each amended to read  
12 as follows:

13       For the purposes of this chapter:

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

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

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

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

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

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

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

36 (a) With respect to tangible personal property, the first act  
37 within this state by which the taxpayer takes or assumes dominion or  
38 control over the article of tangible personal property (as a consumer),  
39 and include installation, storage, withdrawal from storage, or any

1 other act preparatory to subsequent actual use or consumption within  
2 this state; and

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

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

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

12 (5) The meaning ascribed to words and phrases in chapters 82.04 and  
13 82.08 RCW, insofar as applicable, shall have full force and effect with  
14 respect to taxes imposed under the provisions of this chapter.  
15 "Consumer," in addition to the meaning ascribed to it in chapters 82.04  
16 and 82.08 RCW insofar as applicable, shall also mean any person who  
17 distributes or displays, or causes to be distributed or displayed, any  
18 article of tangible personal property, except newspapers, the primary  
19 purpose of which is to promote the sale of products or services.

20 **Sec. 205.** RCW 82.12.020 and 1998 c 332 s 7 are each amended to  
21 read as follows:

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

34 (2) This tax shall apply to the use of every service defined as a  
35 retail sale in RCW 82.04.050 (3)(a) or (5) and the use of every article  
36 of tangible personal property, including property acquired at a casual  
37 or isolated sale, and including byproducts used by the manufacturer  
38 thereof, except as hereinafter provided, irrespective of whether the

1 article or similar articles are manufactured or are available for  
2 purchase within this state.

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

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

11 **Sec. 206.** RCW 82.12.035 and 1996 c 148 s 6 are each amended to  
12 read as follows:

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

21 **PART III**

22 **LOCAL SALES AND USE TAXES**

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

25 (1) The legislative authority of any city or county may impose a  
26 sales and use tax upon the sale or use of telecommunication services.  
27 In cities and counties with legislative authorities of four or fewer  
28 members, two-thirds of the members must approve an ordinance or  
29 resolution under this section. In cities and counties with legislative  
30 authorities of more than four members, a majority plus one vote must  
31 approve an ordinance or resolution under this section.

32 (2) A tax imposed under this section shall be collected from those  
33 persons who are taxable by the state pursuant to chapters 82.08 and  
34 82.12 RCW, upon the occurrence of any taxable event within the city or  
35 county as the case may be. The rate of tax shall not exceed five and

1 eight-tenths percent of the selling price (in the case of a sales tax)  
2 or value of the service used (in the case of a use tax).

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

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

10 For purposes of this chapter:

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

14 (2) A retail sale consisting essentially of the performance of  
15 personal business or professional services shall be deemed to have  
16 occurred at the place at which such services were primarily performed,  
17 except that for the performance of a tow truck service, as defined in  
18 RCW 46.55.010, the retail sale shall be deemed to have occurred at the  
19 place of business of the operator of the tow truck service;

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

25 (4) A retail sale within the scope of the second paragraph of RCW  
26 82.04.050, and a retail sale of taxable personal property to be  
27 installed by the seller shall be deemed to have occurred at the place  
28 where the labor and services involved were primarily performed;

29 (5) A retail sale (~~(consisting of the providing to a consumer of~~  
30 ~~telephone service, as defined in RCW 82.04.065, other than a sale of~~  
31 ~~tangible personal property under subsection (1) of this section or a~~  
32 ~~rental of tangible personal property under subsection (3) of this~~  
33 ~~section,)) of telecommunication service shall be deemed to have  
34 occurred at the situs of the (~~telephone or other~~) instrument through  
35 which the (~~telephone~~) service is rendered;~~

36 (6) "City" means a city or town;

37 (7) The meaning ascribed to words and phrases in chapters 82.04,  
38 82.08 and 82.12 RCW, as now or hereafter amended, insofar as



1 applicable, shall have full force and effect with respect to taxes  
2 imposed under authority of this chapter;

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

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

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

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

31 (2) Subject to the enactment into law of the 1982 amendment to RCW  
32 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in  
33 addition to the tax authorized in subsection (1) of this section, the  
34 governing body of any county or city may by resolution or ordinance  
35 impose an additional sales and use tax in accordance with the terms of  
36 this chapter. Such additional tax shall be collected upon the same  
37 taxable events upon which the tax imposed under subsection (1) of this  
38 section is levied. The rate of such additional tax imposed by a county

1 shall be up to five-tenths of one percent of the selling price (in the  
2 case of a sales tax) or value of the article used (in the case of a use  
3 tax). The rate of such additional tax imposed by a city shall be up to  
4 five-tenths of one percent of the selling price (in the case of a sales  
5 tax) or value of the article used (in the case of a use tax): PROVIDED  
6 HOWEVER, That in the event a county shall impose a sales and use tax  
7 under this subsection at a rate equal to or greater than the rate  
8 imposed under this subsection by a city within the county, the county  
9 shall receive fifteen percent of the city tax: PROVIDED FURTHER, That  
10 in the event that the county shall impose a sales and use tax under  
11 this subsection at a rate which is less than the rate imposed under  
12 this subsection by a city within the county, the county shall receive  
13 that amount of revenues from the city tax equal to fifteen percent of  
14 the rate of tax imposed by the county under this subsection. The  
15 authority to impose a tax under this subsection is intended in part to  
16 compensate local government for any losses from the phase-out of the  
17 property tax on business inventories.

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

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

1 behalf of an unincorporated transportation benefit area, it shall be  
2 voted upon by the voters residing within the boundaries of such  
3 unincorporated transportation benefit area and, if approved, the sales  
4 and use tax shall be imposed only within such area. Notwithstanding  
5 any provisions of this section to the contrary, any county in which a  
6 county public transportation plan has been adopted pursuant to RCW  
7 36.57.070 and the voters of such county have authorized the imposition  
8 of a sales and use tax pursuant to the provisions of section 10,  
9 chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be  
10 authorized to fix and impose a sales and use tax as provided in this  
11 section at not to exceed the rate so authorized without additional  
12 approval of the voters of such county as otherwise required by this  
13 section.

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

26 (2)(a) In the event a metropolitan municipal corporation shall  
27 impose a sales and use tax pursuant to this chapter no city, county  
28 which has created an unincorporated transportation benefit area, public  
29 transportation benefit area authority, or county transportation  
30 authority wholly within such metropolitan municipal corporation shall  
31 be empowered to levy and/or collect taxes pursuant to RCW 35.58.273,  
32 35.95.040, and/or 82.14.045, but nothing herein shall prevent such city  
33 or county from imposing sales and use taxes pursuant to any other  
34 authorization.

35 (b) In the event a county transportation authority shall impose a  
36 sales and use tax pursuant to this section, no city, county which has  
37 created an unincorporated transportation benefit area, public  
38 transportation benefit area, or metropolitan municipal corporation,  
39 located within the territory of the authority, shall be empowered to

1 levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or  
2 82.14.045.

3 (c) In the event a public transportation benefit area shall impose  
4 a sales and use tax pursuant to this section, no city, county which has  
5 created an unincorporated transportation benefit area, or metropolitan  
6 municipal corporation, located wholly or partly within the territory of  
7 the public transportation benefit area, shall be empowered to levy or  
8 collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

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

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

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

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

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

34 **Sec. 305.** RCW 82.14.0485 and 1995 3rd sp.s. c 1 s 101 are each  
35 amended to read as follows:

36 (1) The legislative authority of a county with a population of one  
37 million or more may impose a sales and use tax in accordance with the  
38 terms of this chapter. The tax is in addition to other taxes

1 authorized by law and shall be collected from those persons who are  
2 taxable by the state under chapters 82.08 and 82.12 RCW upon the  
3 occurrence of any taxable event within the county: PROVIDED, That this  
4 sales and use tax does not apply to telecommunication service. The  
5 rate of tax shall not exceed 0.017 percent of the selling price in the  
6 case of a sales tax or value of the article used in the case of a use  
7 tax.

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

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

16 (4) No tax may be collected under this section before January 1,  
17 1996, and no tax may be collected under this section unless the taxes  
18 under RCW 82.14.360 are being collected. The tax imposed in this  
19 section shall expire when the bonds issued for the construction of the  
20 baseball stadium are retired, but not more than twenty years after the  
21 tax is first collected.

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

26 **Sec. 306.** RCW 82.14.0494 and 1997 c 220 s 204 (Referendum Bill No.  
27 48) are each amended to read as follows:

28 (1) The legislative authority of a county that has created a public  
29 stadium authority to develop a stadium and exhibition center under RCW  
30 36.102.050 may impose a sales and use tax in accordance with this  
31 chapter. The tax is in addition to other taxes authorized by law and  
32 shall be collected from those persons who are taxable by the state  
33 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable  
34 event within the county: PROVIDED, That this sales and use tax does  
35 not apply to telecommunication service. The rate of tax shall be 0.016  
36 percent of the selling price in the case of a sales tax or value of the  
37 article used in the case of a use tax.

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

6 (3) Before the issuance of bonds in RCW 43.99N.020, all revenues  
7 collected on behalf of the county under this section shall be  
8 transferred to the public stadium authority. After bonds are issued  
9 under RCW 43.99N.020, all revenues collected on behalf of the county  
10 under this section shall be deposited in the stadium and exhibition  
11 center account under RCW 43.99N.060.

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

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

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

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

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

20 **Sec. 307.** RCW 82.14.370 and 1998 c 55 s 6 are each amended to read  
21 as follows:

22 (1) The legislative authority of a distressed county may impose a  
23 sales and use tax in accordance with the terms of this chapter. The  
24 tax is in addition to other taxes authorized by law and shall be  
25 collected from those persons who are taxable by the state under  
26 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
27 within the county: PROVIDED, That this sales and use tax shall not  
28 apply to telecommunication service. The rate of tax shall not exceed  
29 0.04 percent of the selling price in the case of a sales tax or value  
30 of the article used in the case of a use tax.

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

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

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

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

10 **Sec. 308.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to  
11 read as follows:

12 Cities that operate transit systems, county transportation  
13 authorities, metropolitan municipal corporations, public transportation  
14 benefit areas, and regional transit authorities may submit an  
15 authorizing proposition to the voters and if approved by a majority of  
16 persons voting, fix and impose a sales and use tax in accordance with  
17 the terms of this chapter, solely for the purpose of providing high  
18 capacity transportation service.

19 The tax authorized pursuant to this section shall be in addition to  
20 ~~((the tax authorized by RCW 82.14.030))~~ any other taxes authorized by  
21 law and shall be collected from those persons who are taxable by the  
22 state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of  
23 any taxable event within the taxing district. The maximum rate of such  
24 tax shall be approved by the voters and shall not exceed one percent of  
25 the selling price (in the case of a sales tax) or value of the article  
26 used (in the case of a use tax). The maximum rate of such tax that may  
27 be imposed shall not exceed nine-tenths of one percent in any county  
28 that imposes a tax under RCW 82.14.340, or within a regional transit  
29 authority if any county within the authority imposes a tax under RCW  
30 82.14.340. The exemptions in RCW 82.08.820 and 82.12.820 are for the  
31 state portion of the sales and use tax and do not extend to the tax  
32 authorized in this section.

33 **PART IV**

34 **STATE PUBLIC UTILITY TAX**

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

1 For the purposes of this chapter, unless otherwise required by the  
2 context:

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

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

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

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

19 (5) "Light and power business" means the business of operating a  
20 plant or system for the generation, production or distribution of  
21 electrical energy for hire or sale and/or for the wheeling of  
22 electricity for others.

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

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

28 ~~((8))~~ (7) "Motor transportation business" means the business  
29 (except urban transportation business) of operating any motor propelled  
30 vehicle by which persons or property of others are conveyed for hire,  
31 and includes, but is not limited to, the operation of any motor  
32 propelled vehicle as an auto transportation company (except urban  
33 transportation business), common carrier or contract carrier as defined  
34 by RCW 81.68.010 and 81.80.010: PROVIDED, That "motor transportation  
35 business" shall not mean or include the transportation of logs or other  
36 forest products exclusively upon private roads or private highways.

37 ~~((9))~~ (8) "Urban transportation business" means the business of  
38 operating any vehicle for public use in the conveyance of persons or  
39 property for hire, insofar as (a) operating entirely within the



1 corporate limits of any city or town, or within five miles of the  
2 corporate limits thereof, or (b) operating entirely within and between  
3 cities and towns whose corporate limits are not more than five miles  
4 apart or within five miles of the corporate limits of either thereof.  
5 Included herein, but without limiting the scope hereof, is the business  
6 of operating passenger vehicles of every type and also the business of  
7 operating cartage, pickup, or delivery services, including in such  
8 services the collection and distribution of property arriving from or  
9 destined to a point within or without the state, whether or not such  
10 collection or distribution be made by the person performing a local or  
11 interstate line-haul of such property.

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

23 ~~((11))~~ (10) "Tugboat business" means the business of operating  
24 tugboats, towboats, wharf boats or similar vessels in the towing or  
25 pushing of vessels, barges or rafts for hire.

26 ~~((12))~~ (11) "Gross income" means the value proceeding or accruing  
27 from the performance of the particular public service or transportation  
28 business involved, including operations incidental thereto, but without  
29 any deduction on account of the cost of the commodity furnished or  
30 sold, the cost of materials used, labor costs, interest, discount,  
31 delivery costs, taxes, or any other expense whatsoever paid or accrued  
32 and without any deduction on account of losses.

33 ~~((13))~~ (12) The meaning attributed, in chapter 82.04 RCW, to the  
34 term "tax year," "person," "value proceeding or accruing," "business,"  
35 "engaging in business," "in this state," "within this state," "cash  
36 discount," "telecommunication service," and "successor" shall apply  
37 equally in the provisions of this chapter.



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

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

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

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

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

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

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

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

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

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

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

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

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

32 ~~((Notwithstanding RCW 35.21.714 or 35A.82.060,))~~ Any city or town  
33 which imposes a tax upon business activities measured by gross receipts  
34 or gross income from sales, may impose such tax on that portion of  
35 ~~((network telephone service, as defined in RCW 82.04.065))~~  
36 telecommunication service, as defined in chapter 82.04 RCW, which

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

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

10 (1) No city or town may impose a franchise fee or any other fee or  
11 charge of whatever nature or description upon the light and power, or  
12 gas distribution businesses, as defined in RCW 82.16.010, or  
13 ~~((telephone))~~ telecommunication service business, as defined in RCW  
14 82.04.065, except that (a) a tax ~~((authorized))~~ as limited by RCW  
15 35.21.865 and 35.21.870 may be imposed ~~((and))~~ on light and power and  
16 gas distribution businesses, (b) a tax as limited by RCW 35.21.710 may  
17 be imposed on telecommunication service business, and (c) a fee may be  
18 charged to such businesses that recovers actual administrative expenses  
19 incurred by a city or town that are directly related to receiving and  
20 approving a permit, license, and franchise, to inspecting plans and  
21 construction, or to the preparation of a detailed statement pursuant to  
22 chapter 43.21C RCW.

23 (2) Subsection (1) of this section does not prohibit franchise fees  
24 imposed on an electrical energy~~((r))~~ or natural gas~~((r or telephone))~~  
25 business, by contract existing on April 20, 1982, with a city or town,  
26 for the duration of the contract, but the franchise fees shall be  
27 considered taxes for the purposes of the limitations established in RCW  
28 35.21.865 and 35.21.870 to the extent the fees exceed the costs  
29 allowable under subsection (1) of this section.

30 (3) Subsection (1) of this section does not prohibit franchise fees  
31 imposed on businesses providing telecommunication services by contract  
32 existing on April 20, 1982, with a city or town, for the duration of  
33 the contract, but to the extent the fees exceed the costs allowable  
34 under subsection (1) of this section, the combined rate of a franchise  
35 fee, a tax under section 301 of this act, and a tax under RCW 35.21.710  
36 imposed by the city shall not exceed the greater of: (a) The total  
37 rate of franchise fee and license fee or tax imposed by the city upon  
38 businesses providing telecommunication services on July 1, 1997; or (b)

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

3 **Sec. 506.** RCW 35.21.865 and 1983 c 99 s 4 are each amended to read  
4 as follows:

5 No city or town may change the rate of tax it imposes on the  
6 privilege of conducting an electrical energy(~~(τ)~~) or natural gas(~~(τ-or~~  
7 ~~telephone))~~) business which change applies to business activities  
8 occurring before the effective date of the change, and no rate change  
9 may take effect before the expiration of sixty days following the  
10 enactment of the ordinance establishing the change except as provided  
11 in RCW 35.21.870.

12 **Sec. 507.** RCW 35.21.870 and 1984 c 225 s 6 are each amended to  
13 read as follows:

14 (1) No city or town may impose a tax on the privilege of conducting  
15 an electrical energy, natural gas, or steam energy(~~(τ-or telephone))~~)  
16 business at a rate which exceeds six percent unless the rate is first  
17 approved by a majority of the voters of the city or town voting on such  
18 a proposition.

19 (2) If a city or town is imposing a rate of tax under subsection  
20 (1) of this section in excess of six percent on April 20, 1982, the  
21 city or town shall decrease the rate to a rate of six percent or less  
22 by reducing the rate each year on or before November 1st by ordinances  
23 to be effective on January 1st of the succeeding year, by an amount  
24 equal to one-tenth the difference between the tax rate on April 20,  
25 1982, and six percent.

26 Nothing in this subsection prohibits a city or town from reducing  
27 its rates by amounts greater than the amounts required in this  
28 subsection.

29 Voter approved rate increases under subsection (1) of this section  
30 shall not be included in the computations under this subsection.

31 **Sec. 508.** RCW 35A.82.050 and 1983 2nd ex.s. c 3 s 34 are each  
32 amended to read as follows:

33 Any code city which imposes a license fee or tax upon business  
34 activities consisting of the making of retail sales of tangible  
35 personal property or telecommunication service, which are measured by  
36 gross receipts or gross income from such sales, (~~shall impose such tax~~

1 at a single uniform rate upon all such business activities. This  
2 section shall not apply to any business activities subject to the tax  
3 imposed by chapter 82.16 RCW. For purposes of this section, the  
4 providing to consumers of competitive telephone service, as defined in  
5 RCW 82.04.065, shall be deemed to be the retail sale of tangible  
6 personal property)) is subject to RCW 35.21.710 through 35.21.715.

7  
8 **PART VI**  
**MISCELLANEOUS**

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

11 (1) RCW 35.21.712 (License fees or taxes on telephone business to  
12 be at uniform rate) and 1983 2nd ex.s. c 3 s 35 & 1981 c 144 s 8;

13 (2) RCW 35.21.871 (Tax on telephone business--Deferral of rate  
14 reduction) and 1986 c 70 s 3;

15 (3) RCW 35A.82.055 (License fees or taxes on telephone business to  
16 be at uniform rate) and 1983 2nd ex.s. c 3 s 36 & 1981 c 144 s 9;

17 (4) RCW 35A.82.060 (License fees or taxes on telephone business--  
18 Imposition on certain gross revenues authorized--Limitations) and 1989  
19 c 103 s 3, 1986 c 70 s 4, 1983 2nd ex.s. c 3 s 38, & 1981 c 144 s 11;

20 (5) RCW 35A.82.065 (Taxes on network telephone services) and 1989  
21 c 103 s 4 & 1986 c 70 s 5; and

22 (6) RCW 35A.82.070 (Taxes on telephone business--Deferral of rate  
23 reduction) and 1986 c 70 s 6.

24 NEW SECTION. **Sec. 602.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

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

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

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