
HOUSE BILL 1069

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2021 Regular Session

By Representatives Pollet, Duerr, Leavitt, Wylie, Tharinger, Kloba, Senn, Ryu, Callan, and Fey

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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, 67.28.180,
3 67.28.1816, 82.04.050, 82.04.050, 82.46.010, 82.46.015, 82.46.035,
4 82.46.037, 84.55.050, 35.21.290, and 35.67.210; creating a new
5 section; providing an effective date; providing an expiration date;
6 and 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 **PART II**
34 **LODGING TAX**

35 **Sec. 7.** RCW 67.28.180 and 2015 c 102 s 3 are each amended to
36 read as follows:

37 (1) Subject to the conditions set forth in subsections (2) and
38 (3) of this section, the legislative body of any county or any city,

1 is authorized to levy and collect a special excise tax of not to
2 exceed two percent on the sale of or charge made for the furnishing
3 of lodging that is subject to tax under chapter 82.08 RCW.

4 (2) Any levy authorized by this section is subject to the
5 following:

6 (a) Any county ordinance or resolution adopted pursuant to this
7 section must contain, in addition to all other provisions required to
8 conform to this chapter, a provision allowing a credit against the
9 county tax for the full amount of any city tax imposed pursuant to
10 this section upon the same taxable event.

11 (b) (i) In the event that any county has levied the tax authorized
12 by this section and has, prior to June 26, 1975, either pledged the
13 tax revenues for payment of principal and interest on city revenue or
14 general obligation bonds authorized and issued pursuant to RCW
15 67.28.150 (~~((through [and]))~~) and 67.28.160 or has authorized and
16 issued revenue or general obligation bonds pursuant to the provisions
17 of RCW 67.28.150 (~~((through [and]))~~) and 67.28.160, such county is
18 exempt from the provisions of (a) of this subsection, to the extent
19 that the tax revenues are pledged for payment of principal and
20 interest on bonds issued at any time pursuant to the provisions of
21 RCW 67.28.150 (~~((through [and]))~~) and 67.28.160. However, so much of
22 such pledged tax revenues, together with any investment earnings
23 thereon, not immediately necessary for actual payment of principal
24 and interest on such bonds may be used: (A) In any county with a
25 population of (~~(one million five hundred thousand)~~) 1,500,000 or
26 more, for repayment either of limited tax levy general obligation
27 bonds or of any county fund or account from which a loan was made,
28 the proceeds from the bonds or loan being used to pay for
29 constructing, installing, improving, and equipping stadium capital
30 improvement projects, and to pay for any engineering, planning,
31 financial, legal and professional services incident to the
32 development of such stadium capital improvement projects, regardless
33 of the date the debt for such capital improvement projects was or may
34 be incurred; (B) in any county with a population of (~~(one million~~
35 ~~five hundred thousand)~~) 1,500,000 or more, for repayment or
36 refinancing of bonded indebtedness incurred prior to January 1, 1997,
37 for any purpose authorized by this section or relating to stadium
38 repairs or rehabilitation, including but not limited to the cost of
39 settling legal claims, reimbursing operating funds, interest payments
40 on short-term loans, and any other purpose for which such debt has

1 been incurred if the county has created a public stadium authority to
2 develop a stadium and exhibition center under RCW 36.102.030; or (C)
3 in other counties, for county-owned facilities for agricultural
4 promotion until January 1, 2009, and thereafter for any purpose
5 authorized in this chapter.

6 (ii) A county is exempt under this subsection with respect to
7 city revenue or general obligation bonds issued after April 1, 1991,
8 only if such bonds mature before January 1, 2013. If any county
9 located east of the crest of the Cascade mountains has levied the tax
10 authorized by this section and has, prior to June 26, 1975, pledged
11 the tax revenue for payment of principal and interest on city revenue
12 or general obligation bonds, the county is exempt under this
13 subsection with respect to revenue or general obligation bonds issued
14 after January 1, 2007, only if the bonds mature before January 1,
15 2035. Such a county may only use funds under this subsection (2)(b)
16 for constructing or improving facilities authorized under this
17 chapter, including county-owned facilities for agricultural
18 promotion.

19 (iii) As used in this subsection (2)(b), "capital improvement
20 projects" may include, but not be limited to a stadium restaurant
21 facility, restroom facilities, artificial turf system, seating
22 facilities, parking facilities and scoreboard and information system
23 adjacent to or within a county owned stadium, together with
24 equipment, utilities, accessories and appurtenances necessary
25 thereto. The stadium restaurant authorized by this subsection (2)(b)
26 must be operated by a private concessionaire under a contract with
27 the county.

28 (c)(i) No city within a county exempt under (b) of this
29 subsection may levy the tax authorized by this section so long as
30 said county is so exempt.

31 (ii) No city within a county with a population of (~~one million~~
32 ~~five hundred thousand~~) 1,500,000 or more may levy the tax authorized
33 by this section.

34 (iii) However, in the event that any city in a county described
35 in (c)(i) or (ii) of this subsection (2) has levied the tax
36 authorized by this section and has, prior to June 26, 1975,
37 authorized and issued revenue or general obligation bonds pursuant to
38 the provisions of RCW 67.28.150 (~~(through [and])~~) and 67.28.160, such
39 city may levy the tax so long as the tax revenues are pledged for
40 payment of principal and interest on bonds issued at any time

1 pursuant to the provisions of RCW 67.28.150 (~~through [and]~~) and
2 67.28.160.

3 (3) Any levy authorized by this section by a county that has a
4 population of (~~one million five hundred thousand~~) 1,500,000 or more
5 is subject to the following:

6 (a) Taxes collected under this section in any calendar year
7 before 2013 in excess of (~~five million three hundred thousand~~
8 ~~dollars~~) \$5,300,000 may only be used as follows:

9 (i) (~~Seventy~~) 70 percent from January 1, 2001, through December
10 31, 2012, for art museums, cultural museums, heritage museums, the
11 arts, and the performing arts. Moneys spent under this subsection
12 (3)(a)(i) must be used for the purposes of this subsection (3)(a)(i)
13 in all parts of the county.

14 (ii) (~~Thirty~~) 30 percent from January 1, 2001, through December
15 31, 2012, for the following purposes and in a manner reflecting the
16 following order of priority: Stadium purposes as authorized under
17 subsection (2)(b) of this section; acquisition of open space lands;
18 youth sports activities; and tourism promotion. If all or part of the
19 debt on the stadium is refinanced, all revenues under this subsection
20 (3)(a)(ii) must be used to retire the debt.

21 (b) From January 1, 2013, through December 31, 2015, all revenues
22 under this section must be used to retire the debt on the stadium,
23 until the debt on the stadium is retired. On and after the date the
24 debt on the stadium is retired, and through December 31, 2015, all
25 revenues under this section in a county of (~~one million five hundred~~
26 ~~thousand~~) 1,500,000 or more must be deposited in the special account
27 under (e) of this subsection.

28 (c) From January 1, 2016, through December 31, 2020, all revenues
29 under this section must be either deposited in the stadium and
30 exhibition center account under RCW 43.99N.060 or used for housing
31 and rental assistance.

32 (d) (~~On and after January 1, 2021~~) After the effective date of
33 this section through December 31, 2023, the revenues under this
34 section may be used for housing and rental assistance. Housing and
35 rental assistance includes, but is not limited to, the provision of
36 housing for individuals requiring shelter, supportive housing, or
37 isolation and quarantine due to contagious illness or other health
38 conditions. Revenues on or after December 31, 2023, must be used as
39 follows:

1 (i) At least (~~thirty-seven and one-half~~) 37.5 percent of the
2 revenues under this section must be deposited in the special account
3 under (e) of this subsection.

4 (ii) At least (~~thirty-seven and one-half~~) 37.5 percent of the
5 revenues under this section must be used:

6 (A) For contracts, loans, or grants to nonprofit organizations or
7 public housing authorities for affordable workforce housing within
8 one-half mile of a transit station, as described under RCW 9.91.025
9 or for services for homeless youth; or

10 (B) To repay:

11 (I) General obligation bonds issued pursuant to RCW 67.28.150 to
12 finance such contracts, loans, or grants; or

13 (II) Revenue bonds issued pursuant to RCW 67.28.160 to finance a
14 fund to make such contracts, loans, or grants; or

15 (III) Revenue bonds issued pursuant to RCW 67.28.160 to finance
16 projects authorized by an authority under chapter 43.167 RCW to
17 promote sustainable workplace opportunities near a community impacted
18 by the construction or operation of tourism-related facilities.

19 (iii) The remainder must be used for capital or operating
20 programs that promote tourism and attract tourists to the county.

21 (e) At least (~~forty~~) 40 percent of the revenues distributed
22 pursuant to (a)(i) of this subsection must be deposited in a special
23 account. The account may only be used for the purposes of (a)(i) of
24 this subsection.

25 (f) School districts and schools may not receive revenues
26 distributed pursuant to (a)(i) of this subsection.

27 (g) Moneys distributed to art museums, cultural museums, heritage
28 museums, the arts, and the performing arts, and moneys distributed
29 for tourism promotion must be in addition to and may not be used to
30 replace or supplant any other funding by the legislative body of the
31 county.

32 (h) For the purposes of this section:

33 (i) "Affordable workforce housing" means housing for a single
34 person, family, or unrelated persons living together whose income is
35 between (~~thirty~~) 30 percent and (~~eighty~~) 80 percent of the median
36 income, adjusted for household size, for the county where the housing
37 is located; and

38 (ii) "Tourism promotion" includes activities intended to attract
39 visitors for overnight stays, arts, heritage, and cultural events,
40 and recreational, professional, and amateur sports events. Moneys

1 allocated to tourism promotion in a county with a population of (~~one~~
2 million)) 1,000,000 or more must be allocated to local public
3 organizations and nonprofit organizations formed for the express
4 purpose of tourism promotion in the county. Such organizations must
5 use moneys from the taxes to promote events in all parts of the
6 county.

7 (i) No taxes collected under this section may be used for the
8 operation or maintenance of a public stadium that is financed
9 directly or indirectly by bonds to which the tax is pledged.
10 Expenditures for operation or maintenance include all expenditures
11 other than expenditures that directly result in new fixed assets or
12 that directly increase the capacity, life span, or operating economy
13 of existing fixed assets.

14 (j) No ad valorem property taxes may be used for debt service on
15 bonds issued for a public stadium that is financed by bonds to which
16 the tax is pledged, unless the taxes collected under this section are
17 or are projected to be insufficient to meet debt service requirements
18 on such bonds.

19 (k) If a substantial part of the operation and management of a
20 public stadium that is financed directly or indirectly by bonds to
21 which the tax is pledged is performed by a nonpublic entity or if a
22 public stadium is sold that is financed directly or indirectly by
23 bonds to which the tax is pledged, any bonds to which the tax is
24 pledged shall be retired. This subsection (3)(k) does not apply in
25 respect to a public stadium under chapter 36.102 RCW transferred to,
26 owned by, or constructed by a public facilities district under
27 chapter 36.100 RCW or a stadium and exhibition center.

28 (l) The county may not lease a public stadium that is financed
29 directly or indirectly by bonds to which the tax is pledged to, or
30 authorize the use of the public stadium by, a professional major
31 league sports franchise unless the sports franchise gives the right
32 of first refusal to purchase the sports franchise, upon its sale, to
33 local government. This subsection (3)(l) does not apply to contracts
34 in existence on April 1, 1986.

35 (4) If a court of competent jurisdiction declares any provision
36 of subsection (3) of this section invalid, then that invalid
37 provision is null and void and the remainder of this section is not
38 affected.

1 **Sec. 8.** RCW 67.28.1816 and 2013 c 196 s 1 are each amended to
2 read as follows:

3 (1) Lodging tax revenues under this chapter may be used, directly
4 by any municipality or indirectly through a convention and visitors
5 bureau or destination marketing organization for:

6 (a) Tourism marketing;

7 (b) The marketing and operations of special events and festivals
8 designed to attract tourists;

9 (c) Supporting the operations and capital expenditures of
10 tourism-related facilities owned or operated by a municipality or a
11 public facilities district created under chapters 35.57 and 36.100
12 RCW; (~~or~~)

13 (d) Supporting the operations of tourism-related facilities owned
14 or operated by nonprofit organizations described under 26 U.S.C. Sec.
15 501(c)(3) and 26 U.S.C. Sec. 501(c)(6) of the internal revenue code
16 of 1986, as amended; or

17 (e) After the effective date of this section through December 31,
18 2023, housing and rental assistance. Housing and rental assistance
19 includes, but is not limited to, the provision of housing for
20 individuals requiring shelter, supportive housing, or isolation and
21 quarantine due to contagious illness or other health conditions.

22 (2) (a) Except as provided in (b) of this subsection, or to any
23 revenue used after the effective date of this section through
24 December 31, 2023, applicants applying for use of revenues in this
25 chapter must provide the municipality to which they are applying
26 estimates of how any moneys received will result in increases in the
27 number of people traveling for business or pleasure on a trip:

28 (i) Away from their place of residence or business and staying
29 overnight in paid accommodations;

30 (ii) To a place (~~(fifty)~~) 50 miles or more one way from their
31 place of residence or business for the day or staying overnight; or

32 (iii) From another country or state outside of their place of
33 residence or their business.

34 (b) (i) In a municipality with a population of (~~(five thousand)~~)
35 5,000 or more, applicants applying for use of revenues in this
36 chapter must submit their applications and estimates described under
37 (a) of this subsection to the local lodging tax advisory committee.

38 (ii) The local lodging tax advisory committee must select the
39 candidates from amongst the applicants applying for use of revenues
40 in this chapter and provide a list of such candidates and recommended

1 amounts of funding to the municipality for final determination. The
2 municipality may choose only recipients from the list of candidates
3 and recommended amounts provided by the local lodging tax advisory
4 committee.

5 (c) (i) All recipients must submit a report to the municipality
6 describing the actual number of people traveling for business or
7 pleasure on a trip:

8 (A) Away from their place of residence or business and staying
9 overnight in paid accommodations;

10 (B) To a place (~~(fifty)~~) 50 miles or more one way from their
11 place of residence or business for the day or staying overnight; or

12 (C) From another country or state outside of their place of
13 residence or their business. A municipality receiving a report must:
14 Make such report available to the local legislative body and the
15 public; and furnish copies of the report to the joint legislative
16 audit and review committee and members of the local lodging tax
17 advisory committee.

18 (ii) The joint legislative audit and review committee must on a
19 biennial basis report to the economic development committees of the
20 legislature on the use of lodging tax revenues by municipalities.
21 Reporting under this subsection must begin in calendar year 2015.

22 (d) This section does not apply to the revenues of any lodging
23 tax authorized under this chapter imposed by a county with a
24 population of (~~(one million five hundred thousand)~~) 1,500,000 or
25 more.

26 **Sec. 9.** RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each
27 amended to read as follows:

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

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

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

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

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

18 (v) Purchases for the purpose of providing the property to
19 consumers as part of competitive telephone service, as defined in RCW
20 82.04.065; or

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

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

31 (c) The term also means every sale of tangible personal property
32 to persons engaged in any business that is taxable under RCW
33 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

37 (a) The installing, repairing, cleaning, altering, imprinting, or
38 improving of tangible personal property of or for consumers,
39 including charges made for the mere use of facilities in respect
40 thereto, but excluding charges made for the use of self-service

1 laundry facilities, and also excluding sales of laundry service to
2 nonprofit health care facilities, and excluding services rendered in
3 respect to live animals, birds and insects;

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

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

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

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

33 (f) The furnishing of lodging and all other services by a hotel,
34 rooming house, tourist court, motel, trailer camp, and the granting
35 of any similar license to use real property, as distinguished from
36 the renting or leasing of real property, and it is presumed that the
37 occupancy of real property for a continuous period of one month or
38 more constitutes a rental or lease of real property and not a mere
39 license to use or enjoy the same. For the purposes of this
40 subsection, it is presumed that the sale of and charge made for the

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

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

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

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

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

25 (b) Credit bureau services;

26 (c) Automobile parking and storage garage services;

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

32 (e) Service charges associated with tickets to professional
33 sporting events;

34 (f) The following personal services: Tanning salon services,
35 tattoo parlor services, steam bath services, turkish bath services,
36 escort services, and dating services; and

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

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

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

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

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

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

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

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

36 (G) The provision of access to an athletic or fitness facility by
37 an educational institution to its students and staff. However,
38 charges made by an educational institution to its alumni or other
39 members of the public for the use of any of the educational
40 institution's athletic or fitness facilities are a retail sale under

1 this subsection (3)(g). For purposes of this subsection
2 (3)(g)(ii)(G), "educational institution" has the same meaning as in
3 RCW 82.04.170;

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

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

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

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

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

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

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

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

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

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

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

15 (i) Custom software; or

16 (ii) The customization of prewritten computer software.

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

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

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

31 (7) The term also includes the sale of or charge made for an
32 extended warranty to a consumer. For purposes of this subsection,
33 "extended warranty" means an agreement for a specified duration to
34 perform the replacement or repair of tangible personal property at no
35 additional charge or a reduced charge for tangible personal property,
36 labor, or both, or to provide indemnification for the replacement or
37 repair of tangible personal property, based on the occurrence of
38 specified events. The term "extended warranty" does not include an
39 agreement, otherwise meeting the definition of extended warranty in
40 this subsection, if no separate charge is made for the agreement and

1 the value of the agreement is included in the sales price of the
2 tangible personal property covered by the agreement. For purposes of
3 this subsection, "sales price" has the same meaning as in RCW
4 82.08.010.

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

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

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

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

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

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

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

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

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

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

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

34 (13) The term does not include the sale of or charge made for
35 labor, services, or tangible personal property pursuant to agreements
36 providing maintenance services for bus, rail, or rail fixed guideway
37 equipment when a regional transit authority is the recipient of the
38 labor, services, or tangible personal property, and a transit agency,
39 as defined in RCW 81.104.015, performs the labor or services.

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

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

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

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

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

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

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

1 games, and other entertainment, but does not include parks or zoos
2 for which the primary purpose is the exhibition of wildlife, or
3 fairs, carnivals, and festivals as defined in (b)(i) of this
4 subsection;

5 (v) Batting cage activities;

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

12 (vii) Climbing on artificial climbing structures, whether indoors
13 or outdoors;

14 (viii) Day trips for sightseeing purposes;

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

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

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

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

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

38 (xiv) Go-karting, bumper cars, and other motorized activities
39 where the seller provides the vehicle and the premises where the
40 buyer will operate the vehicle;

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

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

15 (xvii) Paintball and airsoft activities;

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

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

37 (xx) Scuba diving; snorkeling; river rafting; surfing;
38 kiteboarding; flyboarding; water slides; inflatables, such as water
39 pillows, water trampolines, and water rollers; and similar water
40 sports and activities.

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

4 (i) Made for admission to, and rides or attractions at, fairs,
5 carnivals, and festivals. For the purposes of this subsection, fairs,
6 carnivals, and festivals are events that do not exceed (~~twenty-one~~)
7 21 days and a majority of the amusement rides, if any, are not
8 affixed to real property;

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

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

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

24 **Sec. 10.** RCW 82.04.050 and 2020 c 80 s 58 are each amended to
25 read as follows:

26 (1)(a) "Sale at retail" or "retail sale" means every sale of
27 tangible personal property (including articles produced, fabricated,
28 or imprinted) to all persons irrespective of the nature of their
29 business and including, among others, without limiting the scope
30 hereof, persons who install, repair, clean, alter, improve,
31 construct, or decorate real or personal property of or for consumers
32 other than a sale to a person who:

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

37 (ii) Installs, repairs, cleans, alters, imprints, improves,
38 constructs, or decorates real or personal property of or for
39 consumers, if such tangible personal property becomes an ingredient

1 or component of such real or personal property without intervening
2 use by such person; or

3 (iii) Purchases for the purpose of consuming the property
4 purchased in producing for sale as a new article of tangible personal
5 property or substance, of which such property becomes an ingredient
6 or component or is a chemical used in processing, when the primary
7 purpose of such chemical is to create a chemical reaction directly
8 through contact with an ingredient of a new article being produced
9 for sale; or

10 (iv) Purchases for the purpose of consuming the property
11 purchased in producing ferrosilicon which is subsequently used in
12 producing magnesium for sale, if the primary purpose of such property
13 is to create a chemical reaction directly through contact with an
14 ingredient of ferrosilicon; or

15 (v) Purchases for the purpose of providing the property to
16 consumers as part of competitive telephone service, as defined in RCW
17 82.04.065; or

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

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

28 (c) The term also means every sale of tangible personal property
29 to persons engaged in any business that is taxable under RCW
30 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

34 (a) The installing, repairing, cleaning, altering, imprinting, or
35 improving of tangible personal property of or for consumers,
36 including charges made for the mere use of facilities in respect
37 thereto, but excluding charges made for the use of self-service
38 laundry facilities, and also excluding sales of laundry service to
39 nonprofit health care facilities, and excluding services rendered in
40 respect to live animals, birds and insects;

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

10 (c) The constructing, repairing, or improving of any structure
11 upon, above, or under any real property owned by an owner who conveys
12 the property by title, possession, or any other means to the person
13 performing such construction, repair, or improvement for the purpose
14 of performing such construction, repair, or improvement and the
15 property is then reconveyed by title, possession, or any other means
16 to the original owner;

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

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

30 (f) The furnishing of lodging and all other services by a hotel,
31 rooming house, tourist court, motel, trailer camp, and the granting
32 of any similar license to use real property, as distinguished from
33 the renting or leasing of real property, and it is presumed that the
34 occupancy of real property for a continuous period of one month or
35 more constitutes a rental or lease of real property and not a mere
36 license to use or enjoy the same. For the purposes of this
37 subsection, it is presumed that the sale of and charge made for the
38 furnishing of lodging for a continuous period of one month or more to
39 a person is a rental or lease of real property and not a mere license
40 to enjoy the same. For the purposes of this section, it is presumed

1 that the sale of and charge made for the furnishing of lodging
2 offered regularly for public occupancy for periods of less than a
3 month constitutes a license to use or enjoy the property subject to
4 sales and use tax and not a rental or lease of property;

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

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

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

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

22 (b) Credit bureau services;

23 (c) Automobile parking and storage garage services;

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

29 (e) Service charges associated with tickets to professional
30 sporting events;

31 (f) The following personal services: Tanning salon services,
32 tattoo parlor services, steam bath services, turkish bath services,
33 escort services, and dating services; and

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

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

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

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

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

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

24 (E) Rent or association fees charged by a landlord or residential
25 association to a tenant or residential owner with access to an
26 athletic or fitness facility maintained by the landlord or
27 residential association, unless the rent or fee varies depending on
28 whether the tenant or owner has access to the facility;

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

33 (G) The provision of access to an athletic or fitness facility by
34 an educational institution to its students and staff. However,
35 charges made by an educational institution to its alumni or other
36 members of the public for the use of any of the educational
37 institution's athletic or fitness facilities are a retail sale under
38 this subsection (3)(g). For purposes of this subsection
39 (3)(g)(ii)(G), "educational institution" has the same meaning as in
40 RCW 82.04.170;

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

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

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

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

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

26 (C) "Physical fitness activities" means activities that involve
27 physical exertion for the purpose of improving or maintaining the
28 general fitness, strength, flexibility, conditioning, or health of
29 the participant. "Physical fitness activities" includes participating
30 in yoga, chi gong, or martial arts.

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

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

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

39 (6)(a) The term also includes the sale of prewritten computer
40 software to a consumer, regardless of the method of delivery to the

1 end user. For purposes of (a) and (b) of this subsection, the sale of
2 prewritten computer software includes the sale of or charge made for
3 a key or an enabling or activation code, where the key or code is
4 required to activate prewritten computer software and put the
5 software into use. There is no separate sale of the key or code from
6 the prewritten computer software, regardless of how the sale may be
7 characterized by the vendor or by the purchaser.

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

10 (i) Custom software; or

11 (ii) The customization of prewritten computer software.

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

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

20 (B) For purposes of this subsection (6)(c)(ii), "data processing"
21 means the systematic performance of operations on data to extract the
22 required information in an appropriate form or to convert the data to
23 usable information. Data processing includes check processing, image
24 processing, form processing, survey processing, payroll processing,
25 claim processing, and similar activities.

26 (7) The term also includes the sale of or charge made for an
27 extended warranty to a consumer. For purposes of this subsection,
28 "extended warranty" means an agreement for a specified duration to
29 perform the replacement or repair of tangible personal property at no
30 additional charge or a reduced charge for tangible personal property,
31 labor, or both, or to provide indemnification for the replacement or
32 repair of tangible personal property, based on the occurrence of
33 specified events. The term "extended warranty" does not include an
34 agreement, otherwise meeting the definition of extended warranty in
35 this subsection, if no separate charge is made for the agreement and
36 the value of the agreement is included in the sales price of the
37 tangible personal property covered by the agreement. For purposes of
38 this subsection, "sales price" has the same meaning as in RCW
39 82.08.010.

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

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

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

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

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

11 (b) A retail sale of digital goods, digital codes, or digital
12 automated services under this subsection (8) includes any services
13 provided by the seller exclusively in connection with the digital
14 goods, digital codes, or digital automated services, whether or not a
15 separate charge is made for such services.

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

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

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

36 (11) The term also does not include sales of chemical sprays or
37 washes to persons for the purpose of postharvest treatment of fruit
38 for the prevention of scald, fungus, mold, or decay, nor does it
39 include sales of feed, seed, seedlings, fertilizer, agents for
40 enhanced pollination including insects such as bees, and spray

1 materials to: (a) Persons who participate in the federal conservation
2 reserve program, the environmental quality incentives program, the
3 wetlands reserve program, and the wildlife habitat incentives
4 program, or their successors administered by the United States
5 department of agriculture; (b) farmers for the purpose of producing
6 for sale any agricultural product; (c) farmers for the purpose of
7 providing bee pollination services; and (d) farmers acting under
8 cooperative habitat development or access contracts with an
9 organization exempt from federal income tax under 26 U.S.C. Sec.
10 501(c)(3) of the federal internal revenue code or the Washington
11 state department of fish and wildlife to produce or improve wildlife
12 habitat on land that the farmer owns or leases.

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

29 (13) The term does not include the sale of or charge made for
30 labor, services, or tangible personal property pursuant to agreements
31 providing maintenance services for bus, rail, or rail fixed guideway
32 equipment when a regional transit authority is the recipient of the
33 labor, services, or tangible personal property, and a transit agency,
34 as defined in RCW 81.104.015, performs the labor or services.

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

38 (15)(a) The term "sale at retail" or "retail sale" includes
39 amounts charged, however labeled, to consumers to engage in any of
40 the activities listed in this subsection (15)(a), including the

1 furnishing of any associated equipment or, except as otherwise
2 provided in this subsection, providing instruction in such
3 activities, where such charges are not otherwise defined as a "sale
4 at retail" or "retail sale" in this section:

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

15 (B) Notwithstanding (a) (i) (A) of this subsection (15) and except
16 as otherwise provided in this subsection (15) (a) (i) (B), the term
17 "sale at retail" or "retail sale" does not include amounts charged to
18 participate in, or conduct, a golf tournament or other competitive
19 event. However, amounts paid by event participants to the golf
20 facility operator are retail sales under this subsection (15) (a) (i).
21 Likewise, amounts paid by the event organizer to the golf facility
22 are retail sales under this subsection (15) (a) (i), if such amounts
23 vary based on the number of event participants;

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

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

28 (iv) Access to amusement park, theme park, and water park
29 facilities, including but not limited to charges for admission and
30 locker or cabana rentals. Discrete charges for rides or other
31 attractions or entertainment that are in addition to the charge for
32 admission are not a retail sale under this subsection (15) (a) (iv).
33 For the purposes of this subsection, an amusement park or theme park
34 is a location that provides permanently affixed amusement rides,
35 games, and other entertainment, but does not include parks or zoos
36 for which the primary purpose is the exhibition of wildlife, or
37 fairs, carnivals, and festivals as defined in (b) (i) of this
38 subsection;

39 (v) Batting cage activities;

1 (vi) Bowling, but not including competitive events, except that
2 amounts paid by the event participants to the bowling alley operator
3 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
4 paid by the event organizer to the operator of the bowling alley are
5 retail sales under this subsection (15)(a)(vi), if such amounts vary
6 based on the number of event participants;

7 (vii) Climbing on artificial climbing structures, whether indoors
8 or outdoors;

9 (viii) Day trips for sightseeing purposes;

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

12 (x) Horseback riding offered to the public, where the seller
13 furnishes the horse to the buyer and providing instruction is not the
14 primary focus of the activity, including guided rides, but not
15 including therapeutic horseback riding provided by an instructor
16 certified by a nonprofit organization that offers national or
17 international certification for therapeutic riding instructors;

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

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

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

33 (xiv) Go-karting, bumper cars, and other motorized activities
34 where the seller provides the vehicle and the premises where the
35 buyer will operate the vehicle;

36 (xv) Indoor or outdoor playground activities, such as inflatable
37 bounce structures and other inflatables; mazes; trampolines; slides;
38 ball pits; games of tag, including laser tag and soft-dart tag; and
39 human gyroscope rides, regardless of whether such activities occur at
40 the seller's place of business, but not including playground

1 activities provided for children by a licensed child day care center
2 or licensed family day care provider as those terms are defined in
3 RCW 43.216.010;

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

10 (xvii) Paintball and airsoft activities;

11 (xviii) Skating, including ice skating, roller skating, and
12 inline skating, but only in respect to discrete charges to members of
13 the public to engage in skating activities, but not including skating
14 lessons, competitive events, team activities, or fees to join or
15 renew a membership at a skating facility, club, or other
16 organization;

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

32 (xx) Scuba diving; snorkeling; river rafting; surfing;
33 kiteboarding; flyboarding; water slides; inflatables, such as water
34 pillows, water trampolines, and water rollers; and similar water
35 sports and activities.

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

39 (i) Made for admission to, and rides or attractions at, fairs,
40 carnivals, and festivals. For the purposes of this subsection, fairs,

1 carnivals, and festivals are events that do not exceed (~~twenty-one~~)
2 21 days and a majority of the amusement rides, if any, are not
3 affixed to real property;

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

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

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

19 PART III

20 REAL ESTATE EXCISE TAX

21 **Sec. 11.** RCW 82.46.010 and 2015 2nd sp.s. c 10 s 1 are each
22 amended to read as follows:

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

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

1 (b) (~~After~~) Except as provided in subsection (8) of this
2 section, after April 30, 1992, revenues generated from the tax
3 imposed under this subsection (2) in counties over (~~five thousand~~)
4 5,000 population and cities over (~~five thousand~~) 5,000 population
5 that are required or choose to plan under RCW 36.70A.040 must be used
6 solely for financing capital projects specified in a capital
7 facilities plan element of a comprehensive plan and housing
8 relocation assistance under RCW 59.18.440 and 59.18.450. However,
9 revenues (i) pledged by such counties and cities to debt retirement
10 prior to April 30, 1992, may continue to be used for that purpose
11 until the original debt for which the revenues were pledged is
12 retired, or (ii) committed prior to April 30, 1992, by such counties
13 or cities to a project may continue to be used for that purpose until
14 the project is completed.

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

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

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

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

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

33 (b) "Capital project" means those public works projects of a
34 local government for planning, acquisition, construction,
35 reconstruction, repair, replacement, rehabilitation, or improvement
36 of streets; roads; highways; sidewalks; street and road lighting
37 systems; traffic signals; bridges; domestic water systems; storm and
38 sanitary sewer systems; parks; recreational facilities; law
39 enforcement facilities; fire protection facilities; trails;
40 libraries; administrative facilities; judicial facilities; river

1 flood control projects; waterway flood control projects by those
2 jurisdictions that, prior to June 11, 1992, have expended funds
3 derived from the tax authorized by this section for such purposes;
4 until December 31, 1995, housing projects for those jurisdictions
5 that, prior to June 11, 1992, have expended or committed to expend
6 funds derived from the tax authorized by this section or the tax
7 authorized by RCW 82.46.035 for such purposes; and technology
8 infrastructure that is integral to the capital project.

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

15 (8) After the effective date of this section through December 31,
16 2023, a city or county may use revenue from a tax imposed under this
17 section for the operation of, maintenance of, and service support
18 for, existing capital projects, including the provision of services
19 to residents of affordable housing or shelter units.

20 **Sec. 12.** RCW 82.46.015 and 2016 c 138 s 3 are each amended to
21 read as follows:

22 (1) ((A)) After the effective date of this section through
23 December 31, 2023, a city or county may use the greater of \$100,000
24 or 25 percent of available funds from revenues collected under RCW
25 82.46.010 for the maintenance of capital projects, as defined in RCW
26 82.46.010.

27 (2) After December 31, 2023, a city or county that meets the
28 requirements of subsection ((2)) (3) of this section may use the
29 greater of (~~one hundred thousand dollars~~) \$100,000 or (~~twenty-~~
30 five) 25 percent of available funds, but not to exceed (~~one million~~
31 dollars) \$1,000,000 per year, from revenues collected under RCW
32 82.46.010 for the maintenance of capital projects, as defined in RCW
33 82.46.010 ((6) (b)).

34 ((2)) (3) A city or county may use revenues pursuant to
35 subsection ((1)) (2) of this section if:

36 (a) The city or county prepares a written report demonstrating
37 that it has or will have adequate funding from all sources of public
38 funding to pay for all capital projects, as defined in RCW 82.46.010,
39 identified in its capital facilities plan for the succeeding two-year

1 period. Cities or counties not required to prepare a capital
2 facilities plan may satisfy this provision by using a document that,
3 at a minimum, identifies capital project needs and available public
4 funding sources for the succeeding two-year period; and

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

11 (ii) Any local requirement adopted by the city or county under
12 (b) (i) of this subsection is: Specifically authorized by RCW
13 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
14 specifically authorized by other state or federal law; or a seller or
15 landlord disclosure requirement pursuant to RCW 64.06.080.

16 (~~(3)~~) (4) The report prepared under subsection (~~(2)~~) (3) (a)
17 of this section must: (a) Include information necessary to determine
18 compliance with the requirements of subsection (~~(2)~~) (3) (a) of this
19 section; (b) identify how revenues collected under RCW 82.46.010 were
20 used by the city or county during the prior two-year period; (c)
21 identify how funds authorized under subsection (~~(1)~~) (2) of this
22 section will be used during the succeeding two-year period; and (d)
23 identify what percentage of funding for capital projects within the
24 city or county is attributable to revenues under RCW 82.46.010
25 compared to all other sources of capital project funding. The city or
26 county must prepare and adopt the report as part of its regular,
27 public budget process.

28 (~~(4)~~) (5) The authority to use funds as authorized in this
29 section is in addition to the authority to use funds pursuant to RCW
30 82.46.010 (7), which remains in effect through December 31, 2016.

31 (~~(5)~~) (6) For purposes of this section, "maintenance" means the
32 use of funds for labor and materials that will preserve, prevent the
33 decline of, or extend the useful life of a capital project.
34 "Maintenance" does not include labor or material costs for routine
35 operations of a capital project.

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

38 (1) (~~The~~) Except for revenues used after the effective date of
39 this section through December 31, 2023, as provided in subsection (3)

1 of this section, the legislative authority of any county or city must
2 identify in the adopted budget the capital projects funded in whole
3 or in part from the proceeds of the tax authorized in this section,
4 and must indicate that such tax is intended to be in addition to
5 other funds that may be reasonably available for such capital
6 projects.

7 (2) The legislative authority of any county or any city that
8 plans under RCW 36.70A.040(1) may impose an additional excise tax on
9 each sale of real property in the unincorporated areas of the county
10 for the county tax and in the corporate limits of the city for the
11 city tax at a rate not exceeding one-quarter of one percent of the
12 selling price. Any county choosing to plan under RCW 36.70A.040(2)
13 and any city within such a county may only adopt an ordinance
14 imposing the excise tax authorized by this section if the ordinance
15 is first authorized by a proposition approved by a majority of the
16 voters of the taxing district voting on the proposition at a general
17 election held within the district or at a special election within the
18 taxing district called by the district for the purpose of submitting
19 such proposition to the voters.

20 (3) Revenues generated from the tax imposed under subsection (2)
21 of this section must be used by such counties and cities solely for
22 financing capital projects specified in a capital facilities plan
23 element of a comprehensive plan, except that revenues may
24 additionally be used for the operation of, maintenance of, and
25 service support for, existing capital projects after the effective
26 date of this section through December 31, 2023. However, revenues (a)
27 pledged by such counties and cities to debt retirement prior to March
28 1, 1992, may continue to be used for that purpose until the original
29 debt for which the revenues were pledged is retired, or (b) committed
30 prior to March 1, 1992, by such counties or cities to a project may
31 continue to be used for that purpose until the project is completed.

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

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

37 (a) Planning, acquisition, construction, reconstruction, repair,
38 replacement, rehabilitation, or improvement of streets, roads,
39 highways, sidewalks, street and road lighting systems, traffic

1 signals, bridges, domestic water systems, storm and sanitary sewer
2 systems;

3 (b) Planning, construction, reconstruction, repair,
4 rehabilitation, or improvement of parks; and

5 (c) Until January 1, 2026, planning, acquisition, construction,
6 reconstruction, repair, replacement, rehabilitation, or improvement
7 of facilities for those experiencing homelessness and affordable
8 housing projects.

9 (6) A county or city may use the greater of (~~one hundred~~
10 ~~thousand dollars~~) \$100,000 or (~~twenty-five~~) 25 percent of
11 available funds, but not to exceed (~~one million dollars~~)
12 \$1,000,000, for capital projects as defined in subsection (5)(c) of
13 this section. The limits in this subsection do not apply to any
14 county or city that used revenue under this section for the
15 acquisition, construction, improvement, or rehabilitation of
16 facilities to provide housing for the homeless prior to June 30,
17 2019.

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

22 (8) When the governor files a notice of noncompliance under RCW
23 36.70A.340 with the secretary of state and the appropriate county or
24 city, the county or city's authority to impose the additional excise
25 tax under this section is temporarily rescinded until the governor
26 files a subsequent notice rescinding the notice of noncompliance.

27 **Sec. 14.** RCW 82.46.037 and 2019 c 73 s 3 are each amended to
28 read as follows:

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

36 (a) The maintenance of capital projects, as defined in RCW
37 82.46.035(5); and

38 (b) The planning, acquisition, construction, reconstruction,
39 repair, replacement, rehabilitation, improvement, or maintenance of

1 capital projects as defined in RCW 82.46.010(6)(b) that are not also
2 included within the definition of capital projects in RCW
3 82.46.035(5).

4 (2) A city or county may use revenues pursuant to subsection (1)
5 of this section after the effective date of this section through
6 December 31, 2023. Thereafter, a city or county may use revenues
7 pursuant to subsection (1) of this section if:

8 (a) The city or county prepares a written report demonstrating
9 that it has or will have adequate funding from all sources of public
10 funding to pay for all capital projects, as defined in RCW
11 82.46.035(5), identified in its capital facilities plan for the
12 succeeding two-year period; and

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

19 (ii) Any local requirement adopted by the city or county under
20 (b)(i) of this subsection is: Specifically authorized by RCW
21 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
22 specifically authorized by other state or federal law; or a seller or
23 landlord disclosure requirement pursuant to RCW 64.06.080; or

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

28 (3) The report prepared under subsection (2)(a) of this section
29 must: (a) Include information necessary to determine compliance with
30 the requirements of subsection (2)(a) of this section; (b) identify
31 how revenues collected under RCW 82.46.035 were used by the city or
32 county during the prior two-year period; (c) identify how funds
33 authorized under subsection (1) of this section will be used during
34 the succeeding two-year period; and (d) identify what percentage of
35 funding for capital projects within the city or county is
36 attributable to revenues under RCW 82.46.035 compared to all other
37 sources of capital project funding. The city or county must prepare
38 and adopt the report as part of its regular, public budget process.

39 (4) For purposes of this section, "maintenance" means the use of
40 funds for labor and materials that will preserve, prevent the decline

1 of, or extend the useful life of a capital project. "Maintenance"
2 does not include labor or material costs for routine operations of a
3 capital project.

4 **PART IV**

5 **LEVY FLEXIBILITY**

6 **Sec. 15.** RCW 84.55.050 and 2018 c 46 s 3 are each amended to
7 read as follows:

8 (1) Subject to any otherwise applicable statutory dollar rate
9 limitations, regular property taxes may be levied by or for a taxing
10 district in an amount exceeding the limitations provided for in this
11 chapter if such levy is authorized by a proposition approved by a
12 majority of the voters of the taxing district voting on the
13 proposition at a general election held within the district or at a
14 special election within the taxing district called by the district
15 for the purpose of submitting such proposition to the voters. Any
16 election held pursuant to this section shall be held not more than
17 (~~twelve~~) 12 months prior to the date on which the proposed levy is
18 to be made, except as provided in subsection (2) of this section. The
19 ballot of the proposition shall state the dollar rate proposed and
20 shall clearly state the conditions, if any, which are applicable
21 under subsection (4) of this section.

22 (2)(a) Subject to statutory dollar limitations, a proposition
23 placed before the voters under this section may authorize annual
24 increases in levies for multiple consecutive years, up to six
25 consecutive years, during which period each year's authorized maximum
26 legal levy shall be used as the base upon which an increased levy
27 limit for the succeeding year is computed, but the ballot proposition
28 must state the dollar rate proposed only for the first year of the
29 consecutive years and must state the limit factor, or a specified
30 index to be used for determining a limit factor, such as the consumer
31 price index, which need not be the same for all years, by which the
32 regular tax levy for the district may be increased in each of the
33 subsequent consecutive years. Elections for this purpose must be held
34 at a primary or general election. The title of each ballot measure
35 must state the limited purposes for which the proposed annual
36 increases during the specified period of up to six consecutive years
37 shall be used.

1 (b) (i) Except as otherwise provided in this subsection (2) (b),
2 funds raised by a levy under this subsection may not supplant
3 existing funds used for the limited purpose specified in the ballot
4 title. For purposes of this subsection, existing funds means the
5 actual operating expenditures for the calendar year in which the
6 ballot measure is approved by voters. Actual operating expenditures
7 excludes lost federal funds, lost or expired state grants or loans,
8 extraordinary events not likely to reoccur, changes in contract
9 provisions beyond the control of the taxing district receiving the
10 services, and major nonrecurring capital expenditures.

11 (ii) The supplanting limitations in (b) (i) of this subsection do
12 not apply to levies approved by the voters in calendar years 2009,
13 2010, ~~((and))~~ 2011, 2015, 2016, 2017, 2018, 2020, 2021, and 2022, in
14 any county with a population of ~~((one million five hundred thousand))~~
15 1,500,000 or more. This subsection (2) (b) (ii) only applies to levies
16 approved by the voters after July 26, 2009.

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

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

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

29 (a) Use the dollar amount of a levy under subsection (1) of this
30 section, or the dollar amount of the final levy under subsection (2)
31 of this section, for the purpose of computing the limitations for
32 subsequent levies provided for in this chapter;

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

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

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

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

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

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

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

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

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

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

17 PART V

18 UTILITY LIEN FLEXIBILITY

19 **Sec. 16.** RCW 35.21.290 and 2010 c 135 s 2 are each amended to
20 read as follows:

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

27 (2) The lien provided for in subsection (1) of this section may
28 apply to charges more than four months past due, if the city or town
29 has been unable to pursue collection or a lien against the premises
30 to which water, electric light, or power services were furnished due
31 to an emergency declaration by the governor. A lien may be imposed
32 after the expiration of the emergency declaration that prevented
33 collection. The period in which the lien may be imposed is the later
34 of:

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

37 (b) Three months of the ratepayer's failure to abide by the terms
38 of an agreed payment plan, if the payment plan for past due charges

1 would have allowed the ratepayer to repay the past due charges over a
2 period of six months or more.

3 **Sec. 17.** RCW 35.67.210 and 1965 c 7 s 35.67.210 are each amended
4 to read as follows:

5 ((The)) (1) Except as provided for in subsection (2) of this
6 section, the sewerage lien shall be effective for a total of not to
7 exceed six months' delinquent charges without the necessity of any
8 writing or recording. In order to make such lien effective for more
9 than six months' charges the city or town treasurer, clerk, or
10 official charged with the administration of the affairs of the
11 utility shall cause to be filed for record in the office of the
12 county auditor of the county in which such city or town is located, a
13 notice in substantially the following form:

14 "Sewerage lien notice

15 City (or town) of.....

16 vs.

17 reputed owner.

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

21 (here insert legal description of premises)

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

25 Dated.....

26 City (or town) of.....

27 By..... "

28 The lien notice may be signed by the city or town treasurer or
29 clerk or other official in charge of the administration of the
30 utility. The lien notice shall be recorded as prescribed by law for
31 the recording of mechanics' liens.

32 (2) A sewage lien may exceed six months' delinquent charges
33 without the necessity of any writing or recording if collection of
34 charges was impacted by the declaration of an emergency by the
35 governor. In such circumstances, a lien may be filed for all charges

1 due during the period covered by the declaration and may be effective
2 for six months after the expiration of the declaration of the
3 emergency.

4 NEW SECTION. **Sec. 18.** Section 10 of this act takes effect July
5 1, 2022.

6 NEW SECTION. **Sec. 19.** Section 9 of this act expires July 1,
7 2022.

8 NEW SECTION. **Sec. 20.** Except for section 10 of this act, this
9 act is necessary for the immediate preservation of the public peace,
10 health, or safety, or support of the state government and its
11 existing public institutions, and takes effect immediately.

--- END ---