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**ENGROSSED SENATE BILL 5220**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Van De Wege and Rolfes; by request of Department of Revenue

Read first time 01/14/21. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to the taxation of salmon recovery grants by  
2 updating the state business and occupation tax deduction for these  
3 grants, creating a sales and use tax exemption for grant proceeds  
4 received by recipients of these grants, and clarifying the sales and  
5 use tax obligations for goods and services purchased by recipients of  
6 these grants; amending RCW 82.04.4339 and 82.04.050; amending 2020 c  
7 80 s 62 (uncodified); adding a new section to chapter 82.08 RCW;  
8 creating a new section; repealing 2020 c 80 s 58; and declaring an  
9 emergency.

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

11 **Sec. 1.** RCW 82.04.4339 and 2004 c 241 s 1 are each amended to  
12 read as follows:

13 (1) In computing tax there may be deducted from the measure of  
14 tax amounts received by a nonprofit organization from the United  
15 States or any instrumentality thereof (~~(or from)~~), the state of  
16 Washington or any municipal corporation or political subdivision  
17 thereof, or an Indian tribe as defined in RCW 43.06.523, as salmon  
18 recovery grants (~~(to support salmon restoration purposes)~~).

19 (2) For the purposes of this section, (~~("nonprofit")~~) the  
20 following definitions apply:

1       (a) "Nonprofit organization" has the same meaning as in RCW  
2 82.04.3651.

3       (b) "Salmon recovery grant" means, solely for the purposes of  
4 this section, financial assistance provided to primarily benefit the  
5 public as a whole by renewing, restoring, or protecting, by human  
6 intervention, salmon ecosystems or salmon habitats in this state,  
7 whether or not such financial assistance furthers the regulatory  
8 activities of the grantor.

9       **Sec. 2.** RCW 82.04.050 and 2021 c 4 s 3 are each amended to read  
10 as follows:

11       (1)(a) "Sale at retail" or "retail sale" means every sale of  
12 tangible personal property (including articles produced, fabricated,  
13 or imprinted) to all persons irrespective of the nature of their  
14 business and including, among others, without limiting the scope  
15 hereof, persons who install, repair, clean, alter, improve,  
16 construct, or decorate real or personal property of or for consumers  
17 other than a sale to a person who:

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

22       (ii) Installs, repairs, cleans, alters, imprints, improves,  
23 constructs, or decorates real or personal property of or for  
24 consumers, if such tangible personal property becomes an ingredient  
25 or component of such real or personal property without intervening  
26 use by such person; or

27       (iii) Purchases for the purpose of consuming the property  
28 purchased in producing for sale as a new article of tangible personal  
29 property or substance, of which such property becomes an ingredient  
30 or component or is a chemical used in processing, when the primary  
31 purpose of such chemical is to create a chemical reaction directly  
32 through contact with an ingredient of a new article being produced  
33 for sale; or

34       (iv) Purchases for the purpose of consuming the property  
35 purchased in producing ferrosilicon which is subsequently used in  
36 producing magnesium for sale, if the primary purpose of such property  
37 is to create a chemical reaction directly through contact with an  
38 ingredient of ferrosilicon; or

1 (v) Purchases for the purpose of providing the property to  
2 consumers as part of competitive telephone service, as defined in RCW  
3 82.04.065; or

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

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

14 (c) The term also means every sale of tangible personal property  
15 to persons engaged in any business that is taxable under RCW  
16 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

20 (a) The installing, repairing, cleaning, altering, imprinting, or  
21 improving of tangible personal property of or for consumers,  
22 including charges made for the mere use of facilities in respect  
23 thereto, but excluding charges made for the use of self-service  
24 laundry facilities, and also excluding sales of laundry service to  
25 nonprofit health care facilities, and excluding services rendered in  
26 respect to live animals, birds and insects;

27 (b) The constructing, repairing, decorating, or improving of new  
28 or existing buildings or other structures under, upon, or above real  
29 property of or for consumers, including the installing or attaching  
30 of any article of tangible personal property therein or thereto,  
31 whether or not such personal property becomes a part of the realty by  
32 virtue of installation, and also includes the sale of services or  
33 charges made for the clearing of land and the moving of earth  
34 excepting the mere leveling of land used in commercial farming or  
35 agriculture;

36 (c) The constructing, repairing, or improving of any structure  
37 upon, above, or under any real property owned by an owner who conveys  
38 the property by title, possession, or any other means to the person  
39 performing such construction, repair, or improvement for the purpose  
40 of performing such construction, repair, or improvement and the

1 property is then reconveyed by title, possession, or any other means  
2 to the original owner;

3 (d) The cleaning, fumigating, razing, or moving of existing  
4 buildings or structures, but does not include the charge made for  
5 janitorial services; and for purposes of this section the term  
6 "janitorial services" means those cleaning and caretaking services  
7 ordinarily performed by commercial janitor service businesses  
8 including, but not limited to, wall and window washing, floor  
9 cleaning and waxing, and the cleaning in place of rugs, drapes and  
10 upholstery. The term "janitorial services" does not include painting,  
11 papering, repairing, furnace or septic tank cleaning, snow removal or  
12 sandblasting;

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

16 (f) The furnishing of lodging and all other services by a hotel,  
17 rooming house, tourist court, motel, trailer camp, and the granting  
18 of any similar license to use real property, as distinguished from  
19 the renting or leasing of real property, and it is presumed that the  
20 occupancy of real property for a continuous period of one month or  
21 more constitutes a rental or lease of real property and not a mere  
22 license to use or enjoy the same. For the purposes of this  
23 subsection, it is presumed that the sale of and charge made for the  
24 furnishing of lodging for a continuous period of one month or more to  
25 a person is a rental or lease of real property and not a mere license  
26 to enjoy the same;

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

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

38 (3) The term "sale at retail" or "retail sale" includes the sale  
39 of or charge made for personal, business, or professional services  
40 including amounts designated as interest, rents, fees, admission, and

1 other service emoluments however designated, received by persons  
2 engaging in the following business activities:

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

4 (b) Credit bureau services;

5 (c) Automobile parking and storage garage services;

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

11 (e) Service charges associated with tickets to professional  
12 sporting events;

13 (f) The following personal services: Tanning salon services,  
14 tattoo parlor services, steam bath services, turkish bath services,  
15 escort services, and dating services; and

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

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

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

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

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

35 (D) Separately stated charges for physical therapy provided by a  
36 physical therapist, as those terms are defined in RCW 18.74.010, or  
37 occupational therapy provided by an occupational therapy  
38 practitioner, as those terms are defined in RCW 18.59.020, when  
39 performed pursuant to a referral from an authorized health care  
40 practitioner or in consultation with an authorized health care

1 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an  
2 authorized health care practitioner means a health care practitioner  
3 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A  
4 RCW, or, until July 1, 2022, chapter 18.57A RCW;

5 (E) Rent or association fees charged by a landlord or residential  
6 association to a tenant or residential owner with access to an  
7 athletic or fitness facility maintained by the landlord or  
8 residential association, unless the rent or fee varies depending on  
9 whether the tenant or owner has access to the facility;

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

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

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

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

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

33 (A) "Athletic or fitness facility" means an indoor or outdoor  
34 facility or portion of a facility that is primarily used for:  
35 Exercise classes; strength and conditioning programs; personal  
36 training services; tennis, racquetball, handball, squash, or  
37 pickleball; or other activities requiring the use of exercise or  
38 strength training equipment, such as treadmills, elliptical machines,  
39 stair climbers, stationary cycles, rowing machines, pilates

1 equipment, balls, climbing ropes, jump ropes, and weightlifting  
2 equipment.

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

8 (C) "Physical fitness activities" means activities that involve  
9 physical exertion for the purpose of improving or maintaining the  
10 general fitness, strength, flexibility, conditioning, or health of  
11 the participant. "Physical fitness activities" includes participating  
12 in yoga, chi gong, or martial arts.

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

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

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

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

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

32 (i) Custom software; or

33 (ii) The customization of prewritten computer software.

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

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

4 (B) For purposes of this subsection (6)(c)(ii), "data processing"  
5 means the systematic performance of operations on data to extract the  
6 required information in an appropriate form or to convert the data to  
7 usable information. Data processing includes check processing, image  
8 processing, form processing, survey processing, payroll processing,  
9 claim processing, and similar activities.

10 (7) The term also includes the sale of or charge made for an  
11 extended warranty to a consumer. For purposes of this subsection,  
12 "extended warranty" means an agreement for a specified duration to  
13 perform the replacement or repair of tangible personal property at no  
14 additional charge or a reduced charge for tangible personal property,  
15 labor, or both, or to provide indemnification for the replacement or  
16 repair of tangible personal property, based on the occurrence of  
17 specified events. The term "extended warranty" does not include an  
18 agreement, otherwise meeting the definition of extended warranty in  
19 this subsection, if no separate charge is made for the agreement and  
20 the value of the agreement is included in the sales price of the  
21 tangible personal property covered by the agreement. For purposes of  
22 this subsection, "sales price" has the same meaning as in RCW  
23 82.08.010.

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

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

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

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

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

34 (b) A retail sale of digital goods, digital codes, or digital  
35 automated services under this subsection (8) includes any services  
36 provided by the seller exclusively in connection with the digital  
37 goods, digital codes, or digital automated services, whether or not a  
38 separate charge is made for such services.

39 (c) For purposes of this subsection, "permanent" means perpetual  
40 or for an indefinite or unspecified length of time. A right of

1 permanent use is presumed to have been granted unless the agreement  
2 between the seller and the purchaser specifies or the circumstances  
3 surrounding the transaction suggest or indicate that the right to use  
4 terminates on the occurrence of a condition subsequent.

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

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

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

36 (12) The term does not include the sale of or charge made for  
37 labor and services rendered in respect to the constructing,  
38 repairing, decorating, or improving of new or existing buildings or  
39 other structures under, upon, or above real property of or for the  
40 United States, any instrumentality thereof, or a county or city

1 housing authority created pursuant to chapter 35.82 RCW, including  
2 the installing, or attaching of any article of tangible personal  
3 property therein or thereto, whether or not such personal property  
4 becomes a part of the realty by virtue of installation. Nor does the  
5 term include the sale of services or charges made for the clearing of  
6 land and the moving of earth of or for the United States, any  
7 instrumentality thereof, or a county or city housing authority. Nor  
8 does the term include the sale of services or charges made for  
9 cleaning up for the United States, or its instrumentalities,  
10 radioactive waste and other by-products of weapons production and  
11 nuclear research and development.

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

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

21 (15)(a) The term "sale at retail" or "retail sale" includes  
22 amounts charged, however labeled, to consumers to engage in any of  
23 the activities listed in this subsection (15)(a), including the  
24 furnishing of any associated equipment or, except as otherwise  
25 provided in this subsection, providing instruction in such  
26 activities, where such charges are not otherwise defined as a "sale  
27 at retail" or "retail sale" in this section:

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

38 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except  
39 as otherwise provided in this subsection (15)(a)(i)(B), the term  
40 "sale at retail" or "retail sale" does not include amounts charged to

1 participate in, or conduct, a golf tournament or other competitive  
2 event. However, amounts paid by event participants to the golf  
3 facility operator are retail sales under this subsection (15)(a)(i).  
4 Likewise, amounts paid by the event organizer to the golf facility  
5 are retail sales under this subsection (15)(a)(i), if such amounts  
6 vary based on the number of event participants;

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

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

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

22 (v) Batting cage activities;

23 (vi) Bowling, but not including competitive events, except that  
24 amounts paid by the event participants to the bowling alley operator  
25 are retail sales under this subsection (15)(a)(vi). Likewise, amounts  
26 paid by the event organizer to the operator of the bowling alley are  
27 retail sales under this subsection (15)(a)(vi), if such amounts vary  
28 based on the number of event participants;

29 (vii) Climbing on artificial climbing structures, whether indoors  
30 or outdoors;

31 (viii) Day trips for sightseeing purposes;

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

34 (x) Horseback riding offered to the public, where the seller  
35 furnishes the horse to the buyer and providing instruction is not the  
36 primary focus of the activity, including guided rides, but not  
37 including therapeutic horseback riding provided by an instructor  
38 certified by a nonprofit organization that offers national or  
39 international certification for therapeutic riding instructors;

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

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

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

16 (xiv) Go-karting, bumper cars, and other motorized activities  
17 where the seller provides the vehicle and the premises where the  
18 buyer will operate the vehicle;

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

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

33 (xvii) Paintball and airsoft activities;

34 (xviii) Skating, including ice skating, roller skating, and  
35 inline skating, but only in respect to discrete charges to members of  
36 the public to engage in skating activities, but not including skating  
37 lessons, competitive events, team activities, or fees to join or  
38 renew a membership at a skating facility, club, or other  
39 organization;

1 (xix) Nonmotorized snow sports and activities, such as downhill  
2 and cross-country skiing, snowboarding, ski jumping, sledding, snow  
3 tubing, snowshoeing, and similar snow sports and activities, whether  
4 engaged in outdoors or in an indoor facility with or without snow,  
5 but only in respect to discrete charges to the public for the use of  
6 land or facilities to engage in nonmotorized snow sports and  
7 activities, such as fees, however labeled, for the use of ski lifts  
8 and tows and daily or season passes for access to trails or other  
9 areas where nonmotorized snow sports and activities are conducted.  
10 However, fees for the following are not retail sales under this  
11 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits  
12 issued by a governmental entity to park a vehicle on or access public  
13 lands; and (C) permits or leases granted by an owner of private  
14 timberland for recreational access to areas used primarily for  
15 growing and harvesting timber; and

16 (xx) Scuba diving; snorkeling; river rafting; surfing;  
17 kiteboarding; flyboarding; water slides; inflatables, such as water  
18 pillows, water trampolines, and water rollers; and similar water  
19 sports and activities.

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

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

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

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

38 (iv) Made for day camps offered by a nonprofit organization or  
39 state or local governmental entity that provide youth not older than  
40 age eighteen, or that are focused on providing individuals with

1 disabilities or mental illness, the opportunity to participate in a  
2 variety of supervised activities.

3 (16)(a) The term "sale at retail" or "retail sale" includes the  
4 purchase or acquisition of tangible personal property and specified  
5 services by a person who receives either a qualifying grant exempt  
6 from tax under RCW 82.04.--- (section 1, chapter 4, Laws of 2021) or  
7 82.16.--- (section 2, chapter 4, Laws of 2021) or a grant deductible  
8 under RCW 82.04.4339, except for transactions excluded from the  
9 definition of "sale at retail" or "retail sale" by any other  
10 provision of this section. Nothing in this subsection (16) may be  
11 construed to limit the application of any other provision of this  
12 section to purchases by a recipient of either a qualifying grant  
13 exempt from tax under RCW 82.04.--- (section 1, chapter 4, Laws of  
14 2021) or a grant deductible under RCW 82.04.4339, or by any other  
15 person.

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

18 (i) The constructing, repairing, decorating, or improving of new  
19 or existing buildings or other structures under, upon, or above real  
20 property, including the installing or attaching of any article of  
21 tangible personal property therein or thereto, whether or not such  
22 personal property becomes a part of the realty by virtue of  
23 installation;

24 (ii) The clearing of land or the moving of earth, whether or not  
25 associated with activities described in (b)(i) of this subsection  
26 (16);

27 (iii) The razing or moving of existing buildings or structures;  
28 and

29 (iv) Landscape maintenance and horticultural services.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08  
31 RCW to read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to a grantee's  
33 receipt of amounts received as grants that are deductible under RCW  
34 82.04.4339.

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

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

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

4 (3) For purposes of this section, the following definitions  
5 apply:

6 (a) "Grantee" means the recipient of a grant deductible under RCW  
7 82.04.4339.

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

9 NEW SECTION. **Sec. 4.** 2020 c 80 s 58 is repealed.

10 **Sec. 5.** 2020 c 80 s 62 (uncodified) is amended to read as  
11 follows:

12 Sections 12 through 57 and 59 of this act take effect July 1,  
13 2022.

14 NEW SECTION. **Sec. 6.** The provisions of RCW 82.32.805 and  
15 82.32.808 do not apply to this act.

16 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of  
18 the state government and its existing public institutions, and takes  
19 effect immediately.

--- END ---