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**HOUSE BILL 2097**

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**State of Washington**

**69th Legislature**

**2026 Regular Session**

**By** Representatives Scott, Doglio, Peterson, Wylie, Parshley, Farivar, Macri, Hill, and Pollet

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1 AN ACT Relating to authorizing counties to impose a business and  
2 occupation tax; adding a new chapter to Title 36 RCW; providing  
3 effective dates; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** FINDINGS—INTENT. (1) The legislature finds  
6 no reason that counties in Washington state should not be permitted  
7 to levy business and occupation taxes. To fund services related to  
8 behavioral health, public safety, transit, and waste management,  
9 Washington counties rely primarily on sales taxes, property taxes,  
10 and federal grants. Sales taxes are the most regressive form of tax  
11 possible because they consume a disproportionate share of the income  
12 of poor and middle class spenders. Property taxes are often hard on  
13 middle-income and working-class homeowners; in section 1, chapter 39,  
14 Laws of 2015 3rd sp.s., the legislature recognized that "property  
15 taxes impose a substantial financial burden on those with fixed  
16 incomes." In addition, the prospect of depending upon federal grants  
17 has become increasingly dubious under the current presidential  
18 administration.

19 (2) Therefore, the legislature intends to authorize Washington  
20 counties to impose business and occupation taxes to fund services  
21 that Washingtonians rely on.



1 includes opportunity for substantial input from business stakeholders  
2 and other members of the public. Input must be solicited from  
3 statewide business associations and from local chambers of commerce  
4 and business associations.

5 (b) The department of commerce must contract to post the model  
6 ordinance on an internet website and to make paper copies available  
7 for inspection upon request. The department of revenue and the  
8 department of licensing must post copies of or links to the model  
9 ordinance on their internet websites. Additionally, a county that  
10 imposes a business and occupation tax must make copies of its  
11 ordinance available for inspection and copying as provided in chapter  
12 42.56 RCW.

13 (c) The definitions and tax classifications in the model  
14 ordinance may not be amended more frequently than once every four  
15 years, however the model ordinance may be amended at any time to  
16 comply with changes in state law. Any amendment to a mandatory  
17 provision of the model ordinance must be adopted with the same  
18 effective date by all counties.

19 (2) A county that imposes a business and occupation tax must  
20 adopt the mandatory provisions of the model ordinance. The following  
21 provisions are mandatory:

22 (a) A system of credits that meets the requirements of section 9  
23 of this act and a form for such use;

24 (b) A uniform, minimum small business tax threshold of at least  
25 the equivalent of \$20,000 in gross income annually. A county may  
26 elect to deviate from this requirement by creating a higher threshold  
27 or exemption, but it must not deviate lower than the level required  
28 in this subsection (2) (b);

29 (c) Tax reporting frequencies that meet the requirements of  
30 section 10 of this act;

31 (d) Penalty and interest provisions that meet the requirements of  
32 sections 11 and 12 of this act;

33 (e) Claim periods that meet the requirements of section 13 of  
34 this act;

35 (f) Refund provisions that meet the requirements of section 14 of  
36 this act; and

37 (g) Definitions, which at a minimum, must include the definitions  
38 in sections 3 and 15 of this act. The definitions in chapter 82.04  
39 RCW must be used as the baseline for all definitions in the model

1 ordinance, and any deviation in the model ordinance from these  
2 definitions must be described by a comment in the model ordinance.

3 (3) The model ordinance must be drafted to address the issue of  
4 multiple taxation for those tax classifications that are in addition  
5 to those enumerated in section 9 (3) through (5) of this act. The  
6 objective of any such provisions must be to eliminate multiple  
7 taxation of the same income by two or more counties or by a city  
8 located within a county.

9 (4) The model ordinance must be drafted to include a provision  
10 allowing a credit against the county tax imposed under this chapter  
11 for the full amount of any city business and occupation tax imposed  
12 under chapter 35.102 RCW upon the same taxable event.

13 (5) In addition to the deduction required by section 21 of this  
14 act and the system of credits developed to address multiple taxation  
15 under section 9 of this act, a county may adopt its own provisions  
16 for tax exemptions, tax credits, preferential rates, and tax  
17 deductions.

18 (6) Any county that adopts an ordinance that deviates from the  
19 nonmandatory provisions of the model ordinance must make a  
20 description of such differences available to the public, in written  
21 and electronic form.

22 NEW SECTION. **Sec. 6.** IMPOSITION OR INCREASE OF BUSINESS AND  
23 OCCUPATION TAX—REFERENDUM PROCEDURE REQUIRED—EXCLUSIVE PROCEDURE.

24 (1) Every county first imposing a business and occupation tax or  
25 increasing the rate of tax must provide for a referendum procedure to  
26 apply to an ordinance imposing the tax or increasing the rate of the  
27 tax. This referendum procedure must specify that a referendum  
28 petition may be filed within seven days of passage of the ordinance  
29 with a filing officer, as identified in the ordinance. Within 10  
30 days, the filing officer must confer with the petitioner concerning  
31 form and style of the petition, issue the petition an identification  
32 number, and secure an accurate, concise, and positive ballot title  
33 from the designated local official. The petitioner has 30 days in  
34 which to secure the signatures of not less than 15 percent of the  
35 registered voters of the county, as of the last county general  
36 election, upon petition forms which contain the ballot title and the  
37 full text of the measure to be referred. The filing officer must  
38 verify the sufficiency of the signatures on the petition and, if  
39 sufficient valid signatures are properly submitted, must certify the

1 referendum measure to the next election ballot pursuant to RCW  
2 29A.04.321.

3 (2) This referendum procedure must be exclusive in all instances  
4 for any county ordinance imposing a business and occupation tax or  
5 increasing the rate of the tax and must supersede the procedures all  
6 other statutory or charter provisions for initiative or referendum  
7 which might otherwise apply.

8 NEW SECTION. **Sec. 7.** TAXATION OF RETAIL BUSINESSES. Any county  
9 that imposes a tax upon business activities consisting of the making  
10 of retail sales of tangible personal property that are measured by  
11 gross receipts or gross income from such sales, must impose such tax  
12 at a single uniform rate upon all such business activities. This  
13 section does not apply to any business activities subject to the tax  
14 imposed by chapter 82.16 RCW. For purposes of this section, the  
15 providing to consumers of competitive telephone service, as defined  
16 in RCW 82.04.065, or the providing of payphone service as defined in  
17 RCW 35.21.710, must be subject to tax at the same rate as business  
18 activities consisting of the making of retail sales of tangible  
19 personal property.

20 NEW SECTION. **Sec. 8.** NEXUS REQUIRED. A county may not impose a  
21 business and occupation tax on a person unless that person has nexus  
22 with the county. For the purposes of this section, nexus means  
23 business activities conducted by a person sufficient to subject that  
24 person to the taxing jurisdiction of a county under the standards  
25 established for interstate commerce under the commerce clause of the  
26 United States Constitution. Mere registration under or compliance  
27 with the streamlined sales and use tax agreement does not constitute  
28 nexus for the purposes of this section.

29 NEW SECTION. **Sec. 9.** MULTIPLE TAXATION—CREDIT SYSTEM. A county  
30 that imposes a business and occupation tax must provide for a system  
31 of credits to avoid multiple taxation as follows:

32 (1) Persons who engage in business activities that are within the  
33 purview of more than one classification of the tax must be taxable  
34 under each applicable classification.

35 (2) Notwithstanding anything to the contrary in this section, if  
36 imposition of the tax would place an undue burden upon interstate  
37 commerce or violate constitutional requirements, a taxpayer must be

1 allowed a credit only to the extent necessary to preserve the  
2 validity of the tax.

3 (3) Persons taxable under the retailing or wholesaling  
4 classification with respect to selling products in a county must be  
5 allowed a credit against those taxes for any eligible gross receipts  
6 taxes paid by the person: (a) With respect to the manufacturing of  
7 the products sold in the county; and (b) with respect to the  
8 extracting of the products, or the ingredients used in the products,  
9 sold in the county. The amount of the credit must not exceed the tax  
10 liability arising with respect to the sale of those products.

11 (4) Persons taxable under the manufacturing classification with  
12 respect to manufacturing products in a county must be allowed a  
13 credit against that tax for any eligible gross receipts tax paid by  
14 the person with respect to extracting the ingredients of the products  
15 manufactured in the county and with respect to manufacturing the  
16 products other than in the county. The amount of the credit must not  
17 exceed the tax liability arising with respect to the manufacturing of  
18 those products.

19 (5) Persons taxable under the retailing or wholesaling  
20 classification with respect to selling products in a county must be  
21 allowed a credit against those taxes for any eligible gross receipts  
22 taxes paid by the person with respect to the printing, or the  
23 printing and publishing, of the products sold within the county. The  
24 amount of the credit must not exceed the tax liability arising with  
25 respect to the sale of those products.

26 NEW SECTION. **Sec. 10.** REPORTING FREQUENCY. A county that  
27 imposes a business and occupation tax must allow reporting and  
28 payment of tax on a monthly, quarterly, or annual basis. The  
29 frequency for any particular person may be assigned at the discretion  
30 of the county, except that monthly reporting may be assigned only if  
31 it can be demonstrated that the taxpayer is remitting excise tax to  
32 the state on a monthly basis. Payment is due within the same time  
33 period provided under RCW 82.32.045.

34 NEW SECTION. **Sec. 11.** COMPUTATION OF INTEREST. (1) A county  
35 that imposes a business and occupation tax must compute interest  
36 charged a taxpayer on an underpaid tax or penalty in accordance with  
37 RCW 82.32.050.

1 (2) A county that imposes a business and occupation tax must  
2 compute interest paid on refunds or credits of amounts paid or other  
3 recovery allowed a taxpayer in accordance with RCW 82.32.060.

4 NEW SECTION. **Sec. 12.** PENALTIES. A county that imposes a  
5 business and occupation tax must provide for the imposition of  
6 penalties in accordance with chapter 82.32 RCW.

7 NEW SECTION. **Sec. 13.** CLAIM PERIOD. The provisions of a  
8 business and occupation tax relating to the time period allowed for  
9 an assessment or correction of an assessment for additional taxes,  
10 penalties, or interest must be in accordance with chapter 82.32 RCW.

11 NEW SECTION. **Sec. 14.** REFUND PERIOD. The provisions of a  
12 business and occupation tax relating to the time period allowed for a  
13 refund of taxes paid must be in accordance with chapter 82.32 RCW.

14 NEW SECTION. **Sec. 15.** DEFINITIONS—TAX CLASSIFICATIONS. (1) In  
15 addition to the definitions in section 3 of this act, the following  
16 terms and phrases must be defined in the model ordinance under this  
17 chapter, and the definitions must include any specific requirements  
18 as noted in this subsection:

- 19 (a) Commercial and industrial use;
- 20 (b) Eligible gross receipts tax;
- 21 (c) Engaging in business;
- 22 (d) Extracting;
- 23 (e) Manufacturing. Software development may not be defined as a  
24 manufacturing activity;
- 25 (f) Person;
- 26 (g) Retail sale;
- 27 (h) Retailing;
- 28 (i) Services. Services must exclude retail or wholesale services;
- 29 (j) To manufacture;
- 30 (k) Wholesale sale; and
- 31 (l) Wholesaling.

32 (2) Any tax classifications in addition to those enumerated in  
33 subsection (1) of this section that are included in the model  
34 ordinance must be uniform among all counties.

1        NEW SECTION.    **Sec. 16.**    MAXIMUM RATE ESTABLISHED. (1) The taxing  
2 authority granted to counties for taxes upon business activities  
3 measured by gross receipts or gross income from sales must not exceed  
4 a rate of 0.0020.

5        (2) The rate may not be increased unless the qualified voters of  
6 a county, by majority vote, approve rates in excess of the limit in  
7 subsection (1) of this section.

8        (3) Counties that impose a license fee or tax upon business  
9 activities consisting of the making of retail sales of tangible  
10 personal property that are measured by gross receipts or gross income  
11 from such sales must be required to submit an annual report to the  
12 state auditor identifying the rate established and the revenues  
13 received from the tax.

14        NEW SECTION.    **Sec. 17.**    ALLOCATION AND APPORTIONMENT OF INCOME. A  
15 county that imposes a business and occupation tax must provide for  
16 the allocation and apportionment of a person's gross income, other  
17 than persons subject to the provisions of chapter 82.14A RCW, as  
18 follows:

19        (1) Gross income derived from all activities other than those  
20 taxed as service or royalties must be allocated to the location where  
21 the activity takes place.

22        (a) In the case of sales of tangible personal property, the  
23 activity takes place where delivery to the buyer occurs.

24        (b)(i) In the case of sales of digital products, the activity  
25 takes place where delivery to the buyer occurs. The delivery of  
26 digital products occurs at:

27        (A) The seller's place of business if the purchaser receives the  
28 digital product at the seller's place of business;

29        (B) If not received at the seller's place of business, the  
30 location where the purchaser or the purchaser's donee, designated as  
31 such by the purchaser, receives the digital product, including the  
32 location indicated by instructions for delivery to the purchaser or  
33 donee, known to the seller;

34        (C) If the location where the purchaser or the purchaser's donee  
35 receives the digital product is not known, the purchaser's address  
36 maintained in the ordinary course of the seller's business when use  
37 of this address does not constitute bad faith;

38        (D) If no address for the purchaser is maintained in the ordinary  
39 course of the seller's business, the purchaser's address obtained

1 during the consummation of the sale, including the address of a  
2 purchaser's payment instrument, if no other address is available,  
3 when use of this address does not constitute bad faith; and

4 (E) If no address for the purchaser is obtained during the  
5 consummation of the sale, the address where the digital good or  
6 digital code is first made available for transmission by the seller  
7 or the address from which the digital automated service or service  
8 described in RCW 82.04.050 (2)(g) or (6)(b) was provided,  
9 disregarding for these purposes any location that merely provided the  
10 digital transfer of the product sold.

11 (ii) If none of the methods in (b)(i) of this subsection (1) for  
12 determining where the delivery of digital products occurs are  
13 available after a good faith effort by the taxpayer to apply the  
14 methods provided in (b)(i)(A) through (E) of this subsection (1),  
15 then the county and the taxpayer may mutually agree to employ any  
16 other method to effectuate an equitable allocation of income from the  
17 sale of digital products. The taxpayer is responsible for petitioning  
18 the county to use an alternative method under this subsection  
19 (1)(b)(ii). The county may employ an alternative method for  
20 allocating the income from the sale of digital products if the  
21 methods provided in (b)(i)(A) through (E) of this subsection (1) are  
22 not available and the taxpayer and the county are unable to mutually  
23 agree on an alternative method to effectuate an equitable allocation  
24 of income from the sale of digital products.

25 (iii) For purposes of this subsection (1)(b), the following  
26 definitions apply:

27 (A) "Digital automated services," "digital codes," and "digital  
28 goods" have the same meaning as in RCW 82.04.192;

29 (B) "Digital products" means digital goods, digital codes,  
30 digital automated services, and the services described in RCW  
31 82.04.050 (2)(g) and (6)(b); and

32 (C) "Receive" has the same meaning as in RCW 82.32.730.

33 (c)(i) If a business activity allocated under this subsection (1)  
34 takes place in more than one county and all counties impose a gross  
35 receipts tax, or in a city located within a county and both the city  
36 and the county impose a gross receipts tax, a credit must be allowed  
37 as provided in section 9 of this act.

38 (ii) If not all the cities or counties impose a gross receipts  
39 tax, the affected cities and counties must allow another credit or  
40 allocation system as they and the taxpayer agree.

1 (2) Gross income derived as royalties from the granting of  
2 intangible rights must be allocated to the commercial domicile of the  
3 taxpayer.

4 (3) Gross income derived from activities taxed as services must  
5 be apportioned to a county by multiplying apportionable income by a  
6 fraction, the numerator of which is the payroll factor plus the  
7 service-income factor and the denominator of which is two.

8 (a) The payroll factor is a fraction, the numerator of which is  
9 the total amount paid in the county during the tax period by the  
10 taxpayer for compensation and the denominator of which is the total  
11 compensation paid everywhere during the tax period. Compensation is  
12 paid in the county if:

13 (i) The individual is primarily assigned within the county;

14 (ii) The individual is not primarily assigned to any place of  
15 business for the tax period and the employee performs 50 percent or  
16 more of his or her service for the tax period in the county; or

17 (iii) The individual is not primarily assigned to any place of  
18 business for the tax period, the individual does not perform 50  
19 percent or more of the individual's service in any county, and the  
20 employee resides in the county.

21 (b) The service income factor is a fraction, the numerator of  
22 which is the total service income of the taxpayer in the county  
23 during the tax period, and the denominator of which is the total  
24 service income of the taxpayer everywhere during the tax period.  
25 Service income is in the county if the customer location is in the  
26 county.

27 (c) Gross income of the business from engaging in an  
28 apportionable activity must be excluded from the denominator of the  
29 service income factor if, with respect to such activity, the gross  
30 income is attributable under (b) of this subsection (3) to a county  
31 within the United States or foreign country in which the taxpayer is  
32 not taxable. For purposes of this subsection (3)(c), not taxable  
33 means that the taxpayer is not subject to a business activities tax  
34 by that county within the United States or by that foreign country,  
35 except that a taxpayer is taxable in a city or county within the  
36 United States or in a foreign country in which it would be deemed to  
37 have a substantial nexus with the city or county within the United  
38 States or with the foreign country under the standards in section 8  
39 of this act regardless of whether that city or county within the  
40 United States or that foreign country imposes such a tax.

1 (d) If the allocation and apportionment provisions of this  
2 subsection (3) do not fairly represent the extent of the taxpayer's  
3 business activity in the county, the taxpayer may petition for or the  
4 tax administrator may require, with respect to all or any part of the  
5 taxpayer's business activity, if reasonable:

6 (i) Separate accounting;

7 (ii) The exclusion of any one or more of the factors;

8 (iii) The inclusion of one or more additional factors that will  
9 fairly represent the taxpayer's business activity in the county; or

10 (iv) The employment of any other method to effectuate an  
11 equitable allocation and apportionment of the taxpayer's income.

12 (e) The party petitioning for, or the tax administrator  
13 requiring, the use of any method to effectuate an equitable  
14 allocation and apportionment of the taxpayer's income pursuant to (d)  
15 of this subsection (3) must prove by a preponderance of the evidence:

16 (i) That the allocation and apportionment provisions of this  
17 subsection (3) do not fairly represent the extent of the taxpayer's  
18 business activity in the county; and

19 (ii) That the alternative to such provisions is reasonable. The  
20 same burden of proof must apply whether the taxpayer is petitioning  
21 for, or the tax administrator is requiring, the use of an  
22 alternative, reasonable method to effectuate an equitable allocation  
23 and apportionment of the taxpayer's income.

24 (f) If the tax administrator requires any method to effectuate an  
25 equitable allocation and apportionment of the taxpayer's income, the  
26 tax administrator may not impose any civil or criminal penalty with  
27 reference to the tax due that is attributable to the taxpayer's  
28 reasonable reliance solely on the allocation and apportionment  
29 provisions of this subsection (3).

30 (g) A taxpayer that has received written permission from the tax  
31 administrator to use a reasonable method to effectuate an equitable  
32 allocation and apportionment of the taxpayer's income may not have  
33 that permission revoked with respect to transactions and activities  
34 that have already occurred unless there has been a material change  
35 in, or a material misrepresentation of, the facts provided by the  
36 taxpayer upon which the tax administrator reasonably relied in  
37 approving a reasonable alternative method.

38 (4) The definitions in this subsection apply throughout this  
39 section.

1 (a) "Apportionable income" means the gross income of the business  
2 taxable under the service classifications of a county's gross  
3 receipts tax, including income received from activities outside the  
4 county if the income would be taxable under the service  
5 classification if received from activities within the county, less  
6 any exemptions or deductions available.

7 (b) "Business activities tax" means a tax measured by the amount  
8 of, or economic results of, business activity conducted in a city or  
9 county within the United States or within a foreign country. Business  
10 activities tax includes taxes measured in whole or in part on net  
11 income or gross income or receipts. Business activities tax does not  
12 include a sales tax, use tax, or a similar transaction tax, imposed  
13 on the sale or acquisition of goods or services, whether or not  
14 denominated a gross receipts tax or a tax imposed on the privilege of  
15 doing business.

16 (c) "Compensation" means wages, salaries, commissions, and any  
17 other form of remuneration paid to individuals for personal services  
18 that are or would be included in the individual's gross income under  
19 the federal internal revenue code.

20 (d) "Customer" means a person or entity to whom the taxpayer  
21 makes a sale or renders services or from whom the taxpayer otherwise  
22 receives gross income of the business.

23 (e) "Customer location" means the following:

24 (i) For a customer not engaged in business, if the service  
25 requires the customer to be physically present, where the service is  
26 performed.

27 (ii) For a customer not engaged in business, if the service does  
28 not require the customer to be physically present:

29 (A) The customer's residence; or

30 (B) If the customer's residence is not known, the customer's  
31 billing or mailing address.

32 (iii) For a customer engaged in business:

33 (A) Where the services are ordered from;

34 (B) At the customer's billing or mailing address if the location  
35 from which the services are ordered is not known; or

36 (C) At the customer's commercial domicile if none of the above  
37 are known.

38 (f) "Individual" means any individual who, under the usual common  
39 law rules applicable in determining the employer-employee  
40 relationship, has the status of an employee of that taxpayer.

1 (g) "Primarily assigned" means the business location of the  
2 taxpayer where the individual performs the individual's duties.

3 (h) "Service income" means gross income of the business subject  
4 to tax under either the service or royalty classification.

5 (i) "Tax period" means the calendar year during which tax  
6 liability is accrued. If taxes are reported by a taxpayer on a basis  
7 more frequent than once per year, taxpayers must calculate the  
8 factors for the previous calendar year for reporting in the current  
9 calendar year and correct the reporting for the previous year when  
10 the factors are calculated for that year, but not later than the end  
11 of the first quarter of the following year.

12 NEW SECTION. **Sec. 18.** COUNTY BUSINESS AND OCCUPATION TAX—  
13 CONFIDENTIALITY, PRIVILEGE, AND DISCLOSURE. A county that imposes a  
14 business and occupation tax may by ordinance provide that return or  
15 tax information is confidential, privileged, and subject to  
16 disclosure in the manner provided by RCW 82.32.330.

17 NEW SECTION. **Sec. 19.** ALLOCATION OF INCOME—PRINTING AND  
18 PUBLISHING ACTIVITIES. (1) Notwithstanding section 17 of this act, a  
19 county that imposes a business and occupation tax must allocate a  
20 person's gross income from the activities of printing, and of  
21 publishing newspapers, periodicals, or magazines, to the principal  
22 place in this state from which the taxpayer's business is directed or  
23 managed. As used in this section, the activities of printing, and of  
24 publishing newspapers, periodicals, or magazines are those activities  
25 to which the exemption in RCW 82.04.759 and the tax rate in RCW  
26 82.04.280(1)(a) apply.

27 (2) This section expires January 1, 2034.

28 NEW SECTION. **Sec. 20.** ALLOCATION OF INCOME—PRINTING AND  
29 PUBLISHING ACTIVITIES. Notwithstanding section 17 of this act, a  
30 county that imposes a business and occupation tax must allocate a  
31 person's gross income from the activities of printing, and of  
32 publishing newspapers, periodicals, or magazines, to the principal  
33 place in this state from which the taxpayer's business is directed or  
34 managed. As used in this section, the activities of printing, and of  
35 publishing newspapers, periodicals, or magazines are those activities

1 to which the tax rates in RCW 82.04.260(13) and 82.04.280(1)(a)  
2 apply.

3 NEW SECTION. **Sec. 21.** PROFESSIONAL EMPLOYER ORGANIZATIONS—TAX  
4 DEDUCTION. (1) A county that imposes its business and occupation tax  
5 on professional employer services performed by a professional  
6 employer organization, regardless of the tax classification  
7 applicable to such services, must provide a deduction identical to  
8 the deduction in RCW 82.04.540(2).

9 (2) For the purposes of this section, "professional employer  
10 organization" and "professional employer services" have the same  
11 meaning as in RCW 82.04.540.

12 NEW SECTION. **Sec. 22.** RCW 82.32.805 and 82.32.808 do not apply  
13 to this act.

14 NEW SECTION. **Sec. 23.** Sections 2 through 19 and 21 of this act  
15 take effect January 1, 2027.

16 NEW SECTION. **Sec. 24.** Section 20 of this act takes effect  
17 January 1, 2034.

18 NEW SECTION. **Sec. 25.** Sections 1 through 22 of this act  
19 constitute a new chapter in Title 36 RCW.

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