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**SENATE BILL 5974**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Hasegawa, Nguyen, and Das

AN ACT Relating to providing sustainable support for new businesses; adding new sections to chapter 82.04 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) According to the institute on taxation and economic policy, Washington has the most regressive tax structure in the United States. The legislature finds that part of that regressivity lies in the state's reliance on the business and occupation tax, which requires businesses to pay a gross income tax on all qualified transactions, regardless of whether the business is actually profitable. The business and occupation tax structure hinders the sustainability of start-up businesses because it prevents them from reinvesting income back into the business at a time when it is most critical.

(2) The legislature also finds that while Washington has one of the highest annual rates of new business start-ups, it also has one of the highest rates of new business failures. It is the intent of the legislature to support new businesses by creating a sustainable and profitability business environment, without reducing vital state revenue.

(3) The legislature also intends for this preference to be a temporary measure until such time as the state implements comprehensive revenue reform that replaces its current, regressive tax structure, and until such time as the business and occupation tax on gross income is replaced with a graduated corporate net income tax.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 3, chapter . . ., Laws of 2019 (section 3 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes the tax preference in section 3, chapter . . ., Laws of 2019 (section 3 of this act) as one intended to improve industry competitiveness and provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2) (b) and (e).

(3) It is the legislature's specific public policy objective to promote industry competitiveness and new business success by reducing the tax burden on new businesses for the first twenty-four months of operation.

(4) The legislature intends for any loss of revenue resulting from the tax preference in section 3 of this act to be fully mitigated by a commensurate general business and occupation tax increase shared evenly by all persons subject to tax under chapter 82.04 RCW.

(5) The joint legislative audit and review committee must measure the performance of this preference with regard to its success in preventing new business failures and any subsequent increase or decrease in overall revenue collections due to the success of new businesses entering their taxpaying adulthood. In order to obtain the data necessary to perform its review, the joint legislative audit and review committee may access business licensing or other business-related data from the department of revenue and the secretary of state, or any other data or data sources the committee deems necessary in performing the evaluation under this subsection.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to a new business during the first twenty-four months of operation of the business.

(2)(a) For the purposes of this section, "new business" means a business that obtains or is required to obtain a registration certificate under RCW 82.32.030 for the first time. "New business" also includes a branch location or other facility established after the effective date of this section by an entity doing business in this state.

(b) "New business" does not include:

(i) A business that has been restructured, reorganized, or transferred, if the activities to be conducted after restructuring, reorganization, or transferal are substantially similar to the activities previously conducted; or

(ii) A business that is substantially similar to a business currently operated, or operated within the past two years, by the same principals.

(3) This section expires January 1, 2030.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within the state in business activities that are subject to tax under any other section of this chapter; as to such persons, an additional mitigation tax is imposed. The amount of the additional tax imposed under this section with respect to such business may not reasonably exceed a rate necessary to offset any loss of revenue as a result of section 3 of this act.

(2) The tax is due in a form and manner determined by the department. The department must determine the amount collected under this section based on collections from the prior year.

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