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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

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

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

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

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

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

7 NEW SECTION. **Sec. 2.** (1) This section is the tax preference  
8 performance statement for the tax preference contained in section 3,  
9 chapter . . ., Laws of 2019 (section 3 of this act). This performance  
10 statement is only intended to be used for subsequent evaluation of  
11 the tax preference. It is not intended to create a private right of  
12 action by any party or be used to determine eligibility for  
13 preferential tax treatment.

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

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

23 (4) The legislature intends for any loss of revenue resulting  
24 from the tax preference in section 3 of this act to be fully  
25 mitigated by a commensurate general business and occupation tax  
26 increase shared evenly by all persons subject to tax under chapter  
27 82.04 RCW.

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

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 82.04  
2    RCW to read as follows:

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

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

11       (b) "New business" does not include:

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

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

19       (3) This section expires January 1, 2030.

20       NEW SECTION.    **Sec. 4.**    A new section is added to chapter 82.04  
21    RCW to read as follows:

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

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

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