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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: S-2307.4/25 4th draft

ATTY/TYPIST: CL:jcm

BRIEF DESCRIPTION: Enacting an excise tax on large employers on the amount of payroll expenses above the social security wage threshold to fund programs and services to benefit Washingtonians.

1 AN ACT Relating to enacting an excise tax on large employers on  
2 the amount of payroll expenses above the social security wage  
3 threshold to fund public schools, health care, social services, and  
4 other programs and services to benefit Washingtonians; adding a new  
5 Title to the Revised Code of Washington to be codified as Title 50C  
6 RCW; creating a new section; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that,  
9 through the state's general fund, the state funds public schools,  
10 health care, and social services that help Washingtonians to succeed  
11 and thrive.

12 (2) These general fund dollars help the state meet its paramount  
13 duty to amply provide every child in the state with an education,  
14 including children who qualify for special education services,  
15 creating the opportunity for each child to succeed in school and  
16 achieve success in life.

17 (3) The general fund supports health care and other programs that  
18 protect the safety and well-being of the public including behavioral  
19 health services for those living with mental illness or substance use  
20 disorder, as well as supervision of individuals who have committed  
21 crimes.

1 (4) The general fund also funds social services that provide  
2 critical, basic needs assistance for our state's most vulnerable  
3 residents including support for those with developmental disabilities  
4 and long-term care for the elderly.

5 (5) Therefore, the intent of this act is to maintain and preserve  
6 essential services for Washingtonians, particularly within public  
7 schools, health care, and social services, by depositing revenues  
8 from this act to the general fund.

9 (6) Furthermore, the legislature finds that more progress is  
10 needed for the state to have a fair and balanced tax system that can  
11 provide sustainable, ample funding for public schools and other  
12 essential public programs and services. Washington's tax system  
13 remains the second most regressive in the nation as it asks those  
14 with the least to pay the most as a percentage of their income. Low-  
15 income Washingtonians pay at least three times more in state and  
16 local taxes as a percentage of their income than the state's highest  
17 income households. The legislature further acknowledges that the  
18 state's reliance on the business and occupation tax as its primary  
19 tax on business entities in Washington is challenging for small and  
20 low-margin businesses, as it applies to the gross receipts of a  
21 business without consideration of profitability. In response, the  
22 legislature intends to limit this act to employer payroll expenses  
23 above the social security wage threshold and exempt businesses with  
24 less than \$7,000,000 in annual payroll expenses. As a result, the  
25 payroll expense tax is estimated to impact just 17 percent of  
26 businesses in this state, taking a significant step toward reducing  
27 the disproportionate reliance on small and low-margin businesses to  
28 fund public schools, health care, social services, and other programs  
29 and services to benefit Washingtonians.

30 (7) Thus, to help meet the state's paramount duty of amply  
31 providing every child in the state with an education and supporting  
32 the health and well-being of Washingtonians, the legislature intends  
33 to impose a tax on large employers on the amount of payroll expenses  
34 not otherwise subject to social security withholdings.

35 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
36 section apply throughout this chapter unless the context clearly  
37 requires otherwise.

38 (1) "Commissioner" means the commissioner of the employment  
39 security department.

1 (2) "Department" means the employment security department.

2 (3) "Employee" has the same meaning as in RCW 50A.05.010.

3 (4) "Employer" has the same meaning as in RCW 50A.05.010.

4 (5) "Employment" means personal service, of whatever nature, as  
5 known to the common law or any other legal relationship performed for  
6 wages or under any contract calling for the performance of personal  
7 services, written or oral, express or implied. "Employment" includes  
8 an individual's entire service performed within or without or both  
9 within and without this state, if:

10 (a) The service is localized in this state; or

11 (b) The service is not localized in any state, but some of the  
12 service is performed in this state; and

13 (i) The base of operations of the employee is in this state, or  
14 if there is no base of operations, then the place from which such  
15 service is directed or controlled is in this state; or

16 (ii) The base of operations or place from which such service is  
17 directed or controlled is not in any state in which some part of the  
18 service is performed, but the individual's residence is in this  
19 state.

20 (6) "Remuneration" has the same meaning as provided in RCW  
21 50A.05.010.

22 (7) "Service is localized in this state" has the same meaning as  
23 in RCW 50A.05.010.

24 (8) "Wages" means the remuneration paid by an employer to an  
25 employee.

26 NEW SECTION. **Sec. 3.** PAYROLL EXPENSE TAX. (1) Beginning July 1,  
27 2026, a payroll expense tax is levied on employers engaged in  
28 business within the state of Washington as provided in this section.  
29 The payroll expense tax is the total amount of calendar year wages  
30 for each employee in employment of the employer that exceeds the  
31 maximum wages subject to taxation for social security, as determined  
32 by the social security administration, multiplied by a rate of five  
33 percent.

34 (2)(a) Each employer must remit the tax imposed under this  
35 section to the department in a manner specified by the department.

36 (b) In the payment of any taxes, a fractional part of a cent is  
37 disregarded unless it amounts to one-half cent or more, in which case  
38 it is increased to one cent.

1 (3) The commissioner must annually set the employee wage amount  
2 excluded from tax under this section in an amount equal to the  
3 maximum wages subject to taxation for social security as determined  
4 by the social security administration.

5 (4) The tax under this section is imposed on the employer. An  
6 employer may not make any deductions from employee wages to pay for  
7 this tax.

8 NEW SECTION. **Sec. 4.** EXEMPTION. The payroll expense tax under  
9 section 3 of this act does not apply to any employer with total  
10 employee wages equal to or less than \$7,000,000 for the prior  
11 calendar year.

12 NEW SECTION. **Sec. 5.** CREDIT. (1) In computing the tax due under  
13 this chapter, a credit is allowed against the tax imposed in this  
14 chapter and in accordance with this section, for any eligible city  
15 payroll expense tax paid by the employer.

16 (2) (a) The amount of credit is equal to the total amount of  
17 eligible city payroll expense tax remitted to the city during the  
18 immediately prior state tax reporting period. The amount of the  
19 credit may not exceed the tax that would be owed for the city payroll  
20 expense tax in effect on January 1, 2024.

21 (b) No employer may claim a credit under this section for  
22 reporting periods for which no tax was due to the city.

23 (3) The credit under this section may not exceed the tax  
24 otherwise due under this chapter for the tax reporting period. No  
25 refunds may be granted for credits under this section.

26 (4) The department may contract, under chapter 39.34 RCW, with  
27 any city imposing an eligible city payroll expense tax to facilitate  
28 the administration of the credit authorized in this section.

29 (5) For the purpose of this section, "eligible city payroll  
30 expense tax" means a tax that is measured by annual employee  
31 compensation and imposed by a city, as of January 1, 2024.

32 NEW SECTION. **Sec. 6.** EMPLOYER REQUIREMENTS. (1) In the form and  
33 at the times specified in this chapter and by the commissioner, an  
34 employer shall make reports, furnish information, and collect and  
35 remit taxes as required by this chapter to the department. If the  
36 employer is a temporary help company that provides employees on a

1 temporary basis to its customers, the temporary help company is the  
2 employer for purposes of this section.

3 (2) (a) An employer must keep at the employer's place of business  
4 a record of employment, for a period of six years, from which the  
5 information needed by the department for purposes of this chapter may  
6 be obtained. This record must at all times be open to the inspection  
7 of the commissioner.

8 (b) Information obtained under this chapter from employer records  
9 is confidential and not open to public inspection, other than to  
10 public employees in the performance of their official duties.  
11 However, an interested party must be supplied with information from  
12 employer records to the extent necessary for the proper presentation  
13 of the case in question. An employer may authorize inspection of the  
14 employer's records by written consent.

15 (3) Before issuing a warning letter for failure to comply with  
16 requirements relating to the collection of payroll expense taxes is  
17 as provided in this chapter, the department shall enforce the  
18 collection of taxes through conference and conciliation. This  
19 requirement applies to:

20 (a) An employer that fails under this chapter to make the  
21 required reports, or fails to remit the full amount of taxes when  
22 due;

23 (b) An employer that willfully makes a false statement or  
24 misrepresentation regarding a material fact, or willfully fails to  
25 report a material fact, to avoid making the required reports or  
26 remitting the full amount of the tax when due under this chapter;

27 (c) A successor in the manner specified in section 9 of this act;  
28 and

29 (d) An officer, member, or owner having either control or  
30 supervision of payment or reporting of excess compensation taxes, or  
31 both, or who is charged with the responsibility for the filing of  
32 returns, in the manner specified in section 7 of this act.

33 (4) Appeals are governed by section 22 of this act.

34 NEW SECTION. **Sec. 7.** EMPLOYER PENALTIES. (1) An employer who  
35 willfully fails to make the required reports is subject to penalties  
36 as follows: (a) For the second occurrence, the penalty is \$75; (b)  
37 for the third occurrence, the penalty is \$150; and (c) for the fourth  
38 occurrence and for each occurrence thereafter, the penalty is \$250.

1 (2) An employer who willfully fails to remit the full amount of  
2 taxes when due is liable, in addition to the full amount of taxes due  
3 and amounts assessed as interest under section 8 of this act, to a  
4 penalty equal to the tax and interest.

5 (3) Any moneys under this section must be deposited into the  
6 general fund of the state.

7 (4) For the purposes of this section, "willful" means a knowing  
8 and intentional action that is neither accidental nor the result of a  
9 bona fide dispute.

10 (5)(a) Beginning January 1, 2027, the department shall enforce  
11 the collection of penalties and interest pursuant to this section and  
12 section 8 of this act for any penalties and interest accruing after  
13 the effective date of this section.

14 (b) The department shall enforce the collection of penalties  
15 through conference and conciliation.

16 (6) These penalties may be appealed as provided in this chapter.

17 NEW SECTION. **Sec. 8.** DELINQUENCY—ACCRUAL OF INTEREST. If taxes  
18 are not paid on the date on which they are due and payable as  
19 prescribed by the commissioner, the whole or part thereof remaining  
20 unpaid must bear interest at the rate of one percent per month or  
21 fraction thereof from and after such date until payment plus accrued  
22 interest is received by the commissioner. The date as of which  
23 payment of taxes, if mailed, is deemed to have been received may be  
24 determined by such rules as the commissioner may prescribe. Interest  
25 collected pursuant to this section must be paid into the general fund  
26 of the state. Interest may not accrue on taxes from any estate in the  
27 hands of a receiver, executor, administrator, trustee in bankruptcy,  
28 common law assignee, or other liquidating officer subsequent to the  
29 date when such receiver, executor, administrator, trustee in  
30 bankruptcy, common law assignee, or other liquidating officer  
31 qualifies as such, but taxes accruing with respect to employment of  
32 persons by any receiver, executor, administrator, trustee in  
33 bankruptcy, common law assignee, or other liquidating officer become  
34 due and draw interest in the same manner as taxes due from other  
35 employers. Where adequate information has been furnished to the  
36 department and the department has failed to act or has advised the  
37 employer of no liability or inability to decide the issue, interest  
38 may be waived.

1        NEW SECTION.    **Sec. 9.**    TERMINATION OR DISPOSAL OF BUSINESS—TAX  
2    PAYMENT—SUCCESSOR LIABILITY. Whenever any employer quits business, or  
3    sells out, exchanges, or otherwise disposes of the employer's  
4    business or stock of goods, any taxes payable under this chapter  
5    shall become immediately due and payable, and the employer shall,  
6    within 10 days, make a return and pay the taxes due; and any person  
7    who becomes a successor to such business shall become liable for the  
8    full amount of taxes and withhold from the purchase price a sum  
9    sufficient to pay any taxes due from the employer until such time as  
10   the employer produces a receipt from the employment security  
11   department showing payment in full of any taxes due or a certificate  
12   that no tax is due and, if such taxes are not paid by the employer  
13   within 10 days from the date of such sale, exchange, or disposal, the  
14   successor shall become liable for the payment of the full amount of  
15   taxes, and the payment thereof by such successor shall, to the extent  
16   thereof, be deemed a payment upon the purchase price, and if such  
17   payment is greater in amount than the purchase price the amount of  
18   the difference shall become a debt due such successor from the  
19   employer. A successor may not be liable for any tax due from the  
20   person from whom that person has acquired a business or stock of  
21   goods if that person gives written notice to the employment security  
22   department of such acquisition and no assessment is issued by the  
23   department within 180 days of receipt of such notice against the  
24   former operator of the business and a copy thereof mailed to such  
25   successor.

26        NEW SECTION.    **Sec. 10.**    DELINQUENCY—ORDER AND NOTICE OF  
27    ASSESSMENT. At any time after the commissioner shall find that any  
28    tax, interest, or penalties have become delinquent, the commissioner  
29    may issue an order and notice of assessment specifying the amount  
30    due, which order and notice of assessment shall be served upon the  
31    delinquent employer in the manner prescribed for the service of a  
32    summons in a civil action, or using a method by which the mailing can  
33    be tracked or the delivery can be confirmed. Failure of the employer  
34    to receive such notice or order whether served or mailed shall not  
35    release the employer from any tax, or any interest or penalties  
36    thereon.



1        NEW SECTION.        **Sec. 11.**        JEOPARDIZED COLLECTION—IMMEDIATE  
2 ASSESSMENT. If the commissioner has reason to believe that an  
3 employer is insolvent or if any reason exists why the collection of  
4 any taxes accrued will be jeopardized by delaying collection, the  
5 commissioner may make an immediate assessment thereof and may proceed  
6 to enforce collection immediately, but interest and penalties shall  
7 not begin to accrue upon any taxes until the date when such taxes  
8 would normally have become delinquent.

9        NEW SECTION.        **Sec. 12.**        COLLECTION BY DISTRAINT, SEIZURE, AND  
10 SALE. If the amount of tax, interest, or penalties assessed by the  
11 commissioner by order and notice of assessment provided in this  
12 chapter is not paid within 10 days after the service or mailing of  
13 the order and notice of assessment, the commissioner or the  
14 commissioner's duly authorized representative may collect the amount  
15 stated in said assessment by the distraint, seizure, and sale of the  
16 property, goods, chattels, and effects of said delinquent employer.  
17 There shall be exempt from distraint and sale under this section such  
18 goods and property as are exempt from execution under the laws of  
19 this state.

20        NEW SECTION.        **Sec. 13.**        COLLECTION BY DISTRAINT, SEIZURE, AND  
21 SALE—PROCEDURE. The commissioner, upon making a distraint, must seize  
22 the property and must make an inventory of the property distrained, a  
23 copy of which must be mailed to the owner of such property or  
24 personally delivered to the owner, and must specify the time and  
25 place when such property must be sold. A notice specifying the  
26 property to be sold and the time and place of sale must be posted in  
27 at least two public places in the county wherein the seizure has been  
28 made. The time of sale may be not less than 10 nor more than 20 days  
29 from the date of posting of such notices. The sale may be adjourned  
30 from time to time at the discretion of the commissioner, but not for  
31 a time to exceed in all 60 days. The sale must be conducted by the  
32 commissioner or the commissioner's authorized representative who  
33 proceeds to sell such property by parcel or by lot at a public  
34 auction, and who may set a minimum price to include the expenses of  
35 making a levy and of advertising the sale, and if the amount bid for  
36 such property at the sale is not equal to the minimum price so fixed,  
37 the commissioner or the commissioner's representative may declare  
38 such property to be purchased by the department for such minimum

1 price. In such event the delinquent account must be credited with the  
2 amount for which the property has been sold. Property acquired by the  
3 department as prescribed in this section may be sold by the  
4 commissioner or the commissioner's representative at public or  
5 private sale, and the amount realized must be placed in the general  
6 fund of the state. In all cases of sale, as provided in this section,  
7 the commissioner must issue a bill of sale or a deed to the purchaser  
8 and such bill of sale or deed is prima facie evidence of the right of  
9 the commissioner to make such sale and conclusive evidence of the  
10 regularity of the commissioner's proceeding in making the sale, and  
11 must transfer to the purchaser all right, title, and interest of the  
12 delinquent employer in said property. The proceeds of any such sale,  
13 except in those cases wherein the property has been acquired by the  
14 department, must be first applied by the commissioner in satisfaction  
15 of the delinquent account, and out of any sum received in excess of  
16 the amount of delinquent tax, interest, and penalties the  
17 administration fund must be reimbursed for the costs of distraint and  
18 sale. Any excess that thereafter remains in the hands of the  
19 commissioner must be refunded to the delinquent employer. Sums so  
20 refundable to a delinquent employer may be subject to seizure or  
21 distraint in the hands of the commissioner by any other taxing  
22 authority of the state or its political subdivisions.

23 NEW SECTION. **Sec. 14.** NOTICE AND ORDER TO WITHHOLD AND DELIVER.  
24 The commissioner may issue to any person, firm, corporation,  
25 political subdivision, or department of the state, a notice and order  
26 to withhold and deliver property of any kind whatsoever when the  
27 commissioner has reason to believe that there is in the possession of  
28 such person, firm, corporation, political subdivision, or department,  
29 property which is due, owing, or belonging to any person, firm, or  
30 corporation upon whom the department has served a notice and order of  
31 assessment for tax, interest, or penalties. The effect of a notice to  
32 withhold and deliver shall be continuous from the date such notice  
33 and order to withhold and deliver is first made until the liability  
34 is satisfied or becomes unenforceable because of a lapse of time. The  
35 notice and order to withhold and deliver shall be served by the  
36 sheriff or the sheriff's deputy of the county wherein the service is  
37 made, using a method by which the mailing can be tracked or the  
38 delivery can be confirmed, or by any duly authorized representative  
39 of the commissioner. Any person, firm, corporation, political

1 subdivision, or department upon whom service has been made must  
2 answer the notice within 20 days exclusive of the day of service,  
3 under oath and in writing, and shall make true answers to the matters  
4 inquired of in the notice. In the event there is in the possession of  
5 any such person, firm, corporation, political subdivision, or  
6 department, any property which may be subject to the claim of the  
7 employment security department of the state, such property shall be  
8 delivered forthwith to the commissioner or the commissioner's duly  
9 authorized representative upon demand to be held in trust by the  
10 commissioner for application on the indebtedness involved or for  
11 return, without interest, in accordance with final determination of  
12 liability or nonliability, or in the alternative, there shall be  
13 furnished a good and sufficient bond satisfactory to the commissioner  
14 conditioned upon final determination of liability. Should any person,  
15 firm, or corporation fail to make answer to an order to withhold and  
16 deliver within the time prescribed herein, it shall be lawful for the  
17 court, after the time to answer such order has expired, to render  
18 judgment by default against such person, firm, or corporation for the  
19 full amount claimed by the commissioner in the notice to withhold and  
20 deliver, together with costs.

21 NEW SECTION. **Sec. 15.** WARRANT FOR ASSESSMENT. Whenever any  
22 order and notice of assessment or jeopardy assessment has become  
23 final in accordance with the provisions of this chapter the  
24 commissioner may file with the clerk of any county within the state a  
25 warrant in the amount of the notice of assessment plus interest,  
26 penalties, and a filing fee under RCW 36.18.012(10). The clerk of the  
27 county wherein the warrant is filed shall immediately designate a  
28 superior court cause number for such warrant, and the clerk shall  
29 cause to be entered in the judgment docket under the superior court  
30 cause number assigned to the warrant, the name of the employer  
31 mentioned in the warrant, the amount of the tax, interest, penalties,  
32 and filing fee, and the date when such warrant was filed. The  
33 aggregate amount of such warrant as docketed shall become a lien upon  
34 the title to, and interest in all real and personal property of the  
35 employer against whom the warrant is issued, the same as a judgment  
36 in a civil case duly docketed in the office of such clerk. Such  
37 warrant so docketed shall be sufficient to support the issuance of  
38 writs of execution and writs of garnishment in favor of the state in  
39 the manner provided by law in the case of civil judgment, wholly or

1 partially unsatisfied. The clerk of the court shall be entitled to a  
2 filing fee under RCW 36.18.012(10), which shall be added to the  
3 amount of the warrant, and charged by the commissioner to the  
4 employer. A copy of the warrant shall be mailed to the employer using  
5 a method by which the mailing can be tracked or the delivery can be  
6 confirmed within five days of filing with the clerk.

7 NEW SECTION. **Sec. 16.** LIENS. The claim of the employment  
8 security department for any tax, interest, or penalties not paid when  
9 due, shall be a lien prior to all other liens or claims and on a  
10 parity with prior tax liens against all property and rights to  
11 property, whether real or personal, belonging to the employer. In  
12 order to avail itself of the lien hereby created, the department  
13 shall file with any county auditor where property of the employer is  
14 located a statement and claim of lien specifying the amount of  
15 delinquent taxes, interest, and penalties claimed by the department.  
16 From the time of filing for record, the amount required to be paid  
17 shall constitute a lien upon all property and rights to property,  
18 whether real or personal, in the county, owned by the employer or  
19 acquired by him or her. The lien shall not be valid against any  
20 purchaser, holder of a security interest, mechanic's lien, or  
21 judgment lien creditor until notice thereof has been filed with the  
22 county auditor. This lien shall be separate and apart from, and in  
23 addition to, any other lien or claim created by, or provided for in,  
24 this chapter. When any such notice of lien has been so filed, the  
25 commissioner may release the same by filing a certificate of release  
26 when it shall appear that the amount of delinquent tax, interest, and  
27 penalties have been paid, or when such assurance of payment shall be  
28 made as the commissioner may deem to be adequate. Fees for filing and  
29 releasing the lien provided herein may be charged to the employer and  
30 may be collected from the employer utilizing the remedies provided in  
31 this chapter for the collection of taxes.

32 NEW SECTION. **Sec. 17.** LIENS—INSOLVENCY, DISSOLUTION, OR  
33 DISTRIBUTION OF ASSETS. In the event of any distribution of an  
34 employer's assets pursuant to an order of any court, including any  
35 receivership, probate, legal dissolution, or similar proceeding, or  
36 in case of any assignment for the benefit of creditors, composition,  
37 or similar proceeding, tax, interest, or penalties then or thereafter  
38 due shall be a lien upon all the assets of such employer. Said lien

1 is prior to all other liens or claims except prior tax liens, other  
2 liens provided by this chapter, and claims for remuneration for  
3 services of not more than \$250 to each claimant earned within six  
4 months of the commencement of the proceeding. The mere existence of a  
5 condition of insolvency or the institution of any judicial proceeding  
6 for legal dissolution or of any proceeding for distribution of assets  
7 shall cause such a lien to attach without action on behalf of the  
8 commissioner or the state. In the event of an employer's adjudication  
9 in bankruptcy, judicially confirmed extension proposal, or  
10 composition, under the federal bankruptcy act of 1898, as amended,  
11 tax, interest, or penalties then or thereafter due shall be entitled  
12 to such priority as provided in that act, as amended.

13 NEW SECTION. **Sec. 18.** CIVIL ACTIONS—SERVICE OF PROCESS. (1) If  
14 after due notice, any employer defaults in any payment of tax,  
15 interest, or penalties, the amount due may be collected by civil  
16 action in the name of the state, and the employer adjudged in default  
17 shall pay the cost of such action. Any lien created by this chapter  
18 may be foreclosed by decree of the court in any such action. Civil  
19 actions brought under this chapter to collect tax, interest, or  
20 penalties from an employer shall be heard by the court at the  
21 earliest possible date and shall be entitled to preference upon the  
22 calendar of the court over all other civil actions except petitions  
23 for judicial review under this chapter, cases arising under the  
24 unemployment compensation laws of this state, and cases arising under  
25 the industrial insurance laws of this state.

26 (2) Any employer that is not a resident of this state and that  
27 exercises the privilege of having one or more individuals perform  
28 service for it within this state, and any resident employer that  
29 exercises that privilege and thereafter removes from this state,  
30 shall be deemed thereby to appoint the secretary of state as its  
31 agent and attorney for the acceptance of process in any action under  
32 this chapter. In instituting such an action against any such employer  
33 the commissioner shall cause such process or notice to be filed with  
34 the secretary of state and such service shall be sufficient service  
35 upon such employer, and shall be of the same force and validity as if  
36 served upon it personally within this state if the commissioner shall  
37 forthwith send notice of the service of such process or notice,  
38 together with a copy thereof, by registered mail, return receipt  
39 requested, to such employer at its last known address and such return

1 receipt, the commissioner's affidavit of compliance with the  
2 provisions of this section, and a copy of the notice of service shall  
3 be appended to the original of the process filed in the court in  
4 which such action is pending.

5 NEW SECTION. **Sec. 19.** INJUNCTION FROM CONTINUING IN BUSINESS.  
6 Any employer who is delinquent in the payment of tax, interest, or  
7 penalties may be enjoined upon the suit of the state of Washington  
8 from continuing in business in this state or employing persons herein  
9 until the delinquent tax, interest, and penalties have been paid, or  
10 until the employer has furnished a good and sufficient bond in a sum  
11 equal to double the amount of tax, interest, and penalties already  
12 delinquent, plus such further sum as the court deems adequate to  
13 protect the department in the collection of tax, interest, and  
14 penalties which will become due from such employer during the next  
15 ensuing calendar year, said bond to be conditioned upon payment of  
16 all tax, interest, and penalties due and owing within 30 days after  
17 the expiration of the next ensuing calendar year or at such earlier  
18 date as the court may fix. Action under this section may be  
19 instituted in the superior court of any county of the state wherein  
20 the employer resides, has its principal place of business, or where  
21 it has anyone performing services for it, whether or not such  
22 services constitute employment.

23 NEW SECTION. **Sec. 20.** COMPROMISE OF CLAIMS. The commissioner  
24 may compromise any claim for tax, interest, or penalties due and  
25 owing from an employer where collection of the full amount due and  
26 owing, whether reduced to judgment or otherwise, would be against  
27 equity and good conscience. Whenever a compromise is made by the  
28 commissioner in the case of a claim for tax, interest, or penalties,  
29 whether reduced to judgment or otherwise, there shall be placed on  
30 file in the department a statement of the amount of tax, interest,  
31 and penalties imposed by law and claimed due, attorneys' fees and  
32 costs, if any, a complete record of the compromise agreement, and the  
33 amount actually paid in accordance with the terms of the compromise  
34 agreement. If any such compromise is accepted by the commissioner,  
35 within such time as may be stated in the compromise or agreed to,  
36 such compromise shall be final and conclusive and except upon showing  
37 of fraud or malfeasance or misrepresentation of a material fact the  
38 case shall not be reopened as to the matters agreed upon. In any

1 suit, action, or proceeding, such agreement or any determination,  
2 collection, payment, adjustment, refund, or credit made in accordance  
3 therewith shall not be annulled, modified, set aside, or disregarded.

4 NEW SECTION. **Sec. 21.** UNCOLLECTIBLE ACCOUNTS. The commissioner  
5 may charge off as uncollectible and no longer an asset of the general  
6 fund of the state, any delinquent tax, interest, penalties, or  
7 credits if the commissioner is satisfied that there are no cost-  
8 effective means of collecting the tax, interest, or penalties.

9 NEW SECTION. **Sec. 22.** GENERALLY. (1) Any aggrieved party may  
10 file an appeal from any determination or redetermination with the  
11 commissioner within 30 days after the date of notification or  
12 mailing, whichever is earlier, of such determination or  
13 redetermination to the party's last known address. If an appeal with  
14 respect to any determination is pending as of the date when a  
15 redetermination is issued, such appeal, unless withdrawn, shall be  
16 treated as an appeal from such redetermination.

17 (2) Upon receipt of a notice of appeal, the commissioner shall  
18 request the assignment of an administrative law judge under chapter  
19 34.12 RCW to conduct a hearing in accordance with chapter 34.05 RCW  
20 and issue a proposed order.

21 NEW SECTION. **Sec. 23.** ASSESSMENTS. (1) When an order and notice  
22 of assessment has been served upon or mailed to a delinquent  
23 employer, the employer may within 30 days file an appeal with the  
24 department, stating that the assessment is unjust or incorrect and  
25 requesting a hearing. The appeal must set forth the reasons why the  
26 assessment is objected to and the amount of tax, if any, which the  
27 employer admits to be due. If no appeal is filed, the assessment  
28 shall be conclusively deemed to be just and correct except that in  
29 such case, and in cases where payment of tax, interest, or penalties  
30 has been made pursuant to a jeopardy assessment, the commissioner may  
31 properly entertain a subsequent application for refund. The filing of  
32 an appeal on a disputed assessment with the administrative law judge  
33 stays the distraint and sale proceeding provided for in this chapter  
34 until a final decision has been made, but the filing of an appeal  
35 shall not affect the right of the commissioner to perfect a lien, as  
36 provided by this chapter, upon the property of the employer. The  
37 filing of a petition on a disputed assessment stays the accrual of

1 interest and penalties on the disputed taxes until a final decision  
2 is made.

3 (2) Within 30 days after notice of denial of refund or adjustment  
4 has been mailed or delivered, whichever is the earlier, to an  
5 employer, the employer may file an appeal with the department for a  
6 hearing unless assessments have been appealed from and have become  
7 final. The employer shall set forth the reasons why such hearing  
8 should be granted and the amount which the employer believes should  
9 be adjusted or refunded. If no appeal is filed within said 30 days,  
10 the determination of the commissioner as stated in the notice shall  
11 be final.

12 NEW SECTION. **Sec. 24.** WHEN DEEMED FILED AND RECEIVED. The  
13 appeal or petition from a determination, redetermination, order and  
14 notice of assessment, appeals decision, or commissioner's decision is  
15 deemed filed and received if properly addressed and with sufficient  
16 postage:

17 (1) If transmitted through the United States mail, on the date  
18 shown by the United States postal service cancellation mark;

19 (2) If mailed but not received by the addressee, or where  
20 received and the United States postal service cancellation mark is  
21 illegible, erroneous, or omitted, on the date it was mailed, if the  
22 sender establishes by competent evidence that the appeal or petition  
23 was deposited in the United States mail on or before the date due for  
24 filing; or

25 (3) In the case of a metered cancellation mark by the sender and  
26 a United States postal service cancellation mark on the same envelope  
27 or other wrapper, the latter shall control.

28 NEW SECTION. **Sec. 25.** ASSESSMENTS—PROCEDURE. In any proceeding  
29 before an administrative law judge involving an appeal from a  
30 disputed order and notice of assessment or a disputed denial of  
31 refund or adjustment, the administrative law judge, after affording  
32 the parties a reasonable opportunity for hearing, shall affirm,  
33 modify, or set aside the notice of assessment or denial of refund.  
34 The parties shall be duly notified of such decision together with the  
35 reasons, which shall be deemed to be the final decision unless within  
36 30 days after the date of notification or mailing, whichever is the  
37 earlier, of such decision, further appeal is perfected pursuant to



1 the provisions of this chapter relating to review by the  
2 commissioner.

3 NEW SECTION. **Sec. 26.** HEARING PROCEDURES. The manner in which  
4 any dispute is presented to the administrative law judge, and the  
5 conduct of hearings and appeals, shall be in accordance with rules  
6 adopted by the commissioner. A full and complete record shall be kept  
7 of all administrative law judge proceedings. All testimony at any  
8 appeal hearing shall be recorded, but need not be transcribed unless  
9 further appeal is taken.

10 NEW SECTION. **Sec. 27.** COMMISSIONER REVIEW—INITIATION. Within 30  
11 days from the date of notification or mailing, whichever is the  
12 earlier, of any decision of an administrative law judge, the  
13 commissioner on the commissioner's own order may, or upon petition of  
14 any interested party shall, take jurisdiction of the proceedings for  
15 the purpose of review. Appeal from any decision of an administrative  
16 law judge may be perfected so as to prevent finality of such decision  
17 if, within 30 days from the date of notification or mailing of the  
18 decision, whichever is the earlier, a petition in writing for review  
19 by the commissioner is received by the commissioner or by such  
20 representative of the commissioner as the commissioner by rule shall  
21 prescribe. The commissioner may also prevent finality of any decision  
22 of an administrative law judge and take jurisdiction of the  
23 proceedings for the commissioner's review by entering an order so  
24 providing on the commissioner's own motion and mailing a copy thereof  
25 to the interested parties within the same period allowed for receipt  
26 of a petition for review. The time limit provided for the  
27 commissioner's assumption of jurisdiction on the commissioner's own  
28 motion for review shall be deemed to be jurisdictional.

29 NEW SECTION. **Sec. 28.** COMMISSIONER REVIEW—PROCEDURE. After  
30 having acquired jurisdiction for review, the commissioner shall  
31 review the proceedings in question. Prior to rendering a decision,  
32 the commissioner may order the taking of additional evidence by an  
33 administrative law judge to be made a part of the record in the case.  
34 Upon the basis of evidence submitted to the administrative law judge  
35 and such additional evidence as the commissioner may order to be  
36 taken, the commissioner shall render a decision in writing affirming,  
37 modifying, or setting aside the decision of the administrative law

1 judge. Alternatively, the commissioner may order further proceedings  
2 to be held before the administrative law judge, upon completion of  
3 which the administrative law judge shall issue a new decision in  
4 writing affirming, modifying, or setting aside the previous decision  
5 of the administrative law judge. The new decision of the  
6 administrative law judge may be appealed as provided under section 27  
7 of this act. The commissioner shall mail the decision of the  
8 commissioner to the interested parties at their last known addresses.

9 NEW SECTION. **Sec. 29.** COMMISSIONER REVIEW—WHEN FINAL—  
10 COMMISSIONER AS PARTY. Any decision of the commissioner involving a  
11 review of an administrative law judge decision, in the absence of a  
12 petition as provided in chapter 34.05 RCW, becomes final 30 days  
13 after notification or mailing, whichever is earlier. The commissioner  
14 shall be deemed to be a party to any judicial action involving any  
15 such decision and shall be represented in any such judicial action by  
16 the attorney general.

17 NEW SECTION. **Sec. 30.** APPLICABILITY OF FINDINGS,  
18 DETERMINATIONS, ETC., TO OTHER ACTIONS. Any finding, determination,  
19 conclusion, declaration, or final order made by the commissioner, or  
20 the commissioner's representative or delegate, or by an appeal  
21 tribunal, administrative law judge, reviewing officer, or other agent  
22 of the department for the purposes of this chapter, shall not be  
23 conclusive, nor binding, nor admissible as evidence in any separate  
24 action outside the scope of this chapter between an employee and the  
25 employee's present or prior employer before an arbitrator, court, or  
26 judge of this state or the United States, regardless of whether the  
27 prior action was between the same or related parties or involved the  
28 same facts or was reviewed pursuant to section 33 of this act.

29 NEW SECTION. **Sec. 31.** WAIVER OF TIME LIMITATIONS. For good  
30 cause shown the administrative law judge or the commissioner may  
31 waive the time limitations for administrative appeals or petitions  
32 set forth in this chapter.

33 NEW SECTION. **Sec. 32.** JUDICIAL REVIEW. (1) In all court  
34 proceedings under or pursuant to this chapter the decision of the  
35 commissioner shall be prima facie correct, and the burden of proof  
36 shall be upon the party challenging the decision.

1 (2) If the court determines that the commissioner has acted  
2 within the commissioner's power and has correctly construed the law,  
3 the decision of the commissioner shall be confirmed; otherwise, the  
4 decision shall be reversed or modified. In case of a modification or  
5 reversal the superior court shall refer the decision to the  
6 commissioner with an order directing the commissioner to proceed in  
7 accordance with the findings of the court.

8 (3) Whenever any order and notice of assessment shall have become  
9 final in accordance with the provisions of this chapter, the court  
10 shall upon application of the commissioner enter a judgment in the  
11 amount provided for in the order and notice of assessment, and the  
12 judgment shall have and be given the same effect as if entered  
13 pursuant to a civil action instituted in the court.

14 NEW SECTION. **Sec. 33.** JUDICIAL REVIEW—PROCEDURE. Judicial  
15 review of a decision of the commissioner involving the review of a  
16 decision of an administrative law judge under this chapter may be had  
17 only in accordance with the procedural requirements of RCW 34.05.452.

18 NEW SECTION. **Sec. 34.** REMEDIES EXCLUSIVE. The remedies provided  
19 in this chapter for determining the justness or correctness of  
20 assessments, refunds, adjustments, or claims shall be exclusive and  
21 no court shall entertain any action to enjoin an assessment or  
22 require a refund or adjustment except in accordance with the  
23 provisions of this chapter. Matters which may be determined by the  
24 procedures set out in this chapter shall not be the subject of any  
25 declaratory judgment.

26 NEW SECTION. **Sec. 35.** DEPOSITING FUNDS. All tax, interest, and  
27 penalties collected under this chapter must be deposited in the  
28 general fund of the state.

29 NEW SECTION. **Sec. 36.** PROCUREMENT EXEMPTION. The department is  
30 exempt from the requirements of chapter 39.26 RCW until October 1,  
31 2026, for purposes of implementing Title 50C RCW (the new title  
32 created in section 40 of this act).

33 NEW SECTION. **Sec. 37.** RULE MAKING. The department may adopt  
34 rules as necessary to implement this title.

1        NEW SECTION.    **Sec. 38.**    SHORT TITLE. This act may be known and  
2 cited as the payroll expense tax act.

3        NEW SECTION.    **Sec. 39.**    SEVERABILITY. If any provision of this  
4 act or its application to any person or circumstance is held invalid,  
5 the remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7        NEW SECTION.    **Sec. 40.**    CODIFICATION. Sections 1 through 38 of  
8 this act constitute a new chapter in a new title to be codified as  
9 Title 50C RCW.

10       NEW SECTION.    **Sec. 41.**    NECESSITY OF ACT. This act is necessary  
11 for the support of the state government and its existing public  
12 institutions.

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