

Proposed Substitute House Bill 2100

(H-3101.1)

By Representative Scott

House Bill 2100 creates a payroll expense tax that is levied on large operating companies engaged in business within Washington. The tax is 5 percent of the total annual employee wages that exceed the Social Security wage limit. The tax is imposed on the employer. A “large operating company” is a company that employs more than 20 people, maintains more than \$5 million in gross receipts or sales, and maintains an address in the United States. The payroll expense tax does not apply to any employer with total employee wages equal to or less than \$7 million for the prior calendar year. The bill also establishes the Well Washington Fund Account and creates the Well Washington Fund Oversight and Accountability Board (Board).

Proposed Substitute House Bill 2100 makes the following changes:

- Adds additional language to the intent section.
- Requires that a non-voting member in the employ of the Employment Security Department be added to the Board.
- Clarifies the definition of “employer” and “large operating company” for the purposes of the payroll expense tax:
 - An employer must be a “large operating company.”
 - A large operating company must employ 250 or more people and have at least \$7 million in annual payroll.
 - A large operating company does not include a health care facility, a health care provider, or a health system that operates one or more hospitals.
 - A large operating company does not include school districts, local governments, quasi-municipal corporations, political subdivisions, or state agencies.
- Adds an emergency clause.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3101.1/26

ATTY/TYPIST: CL:akl

BRIEF DESCRIPTION: Enacting an excise tax on large operating companies on the amount of payroll expenses above the minimum wage threshold of the additional medicare tax to fund services to benefit Washingtonians and establishing the Well Washington fund account.

1 AN ACT Relating to enacting an excise tax on large operating
2 companies on the amount of payroll expenses above the minimum wage
3 threshold of the additional medicare tax to fund services to benefit
4 Washingtonians and establishing the Well Washington fund account;
5 adding a new section to chapter 43.79 RCW; adding a new Title to the
6 Revised Code of Washington to be codified as Title 50C RCW; creating
7 new sections; prescribing penalties; and declaring an emergency.

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

9 **PART I**

10 **LEGISLATIVE INTENT**

11 NEW SECTION. **Sec. 1.** FINDINGS-INTENT. (1) The legislature finds
12 that the 2025 federal H.R. 1 reconciliation bill, Public Law 119-21,
13 will result in substantial cuts to staple silos of public sector
14 spending.

15 (2) The legislature finds that the office of financial management
16 has identified higher education, energy and economic development,
17 food assistance via the supplemental nutrition assistance program
18 (SNAP, i.e. "food stamps"), and health care (especially medicaid) as
19 state spending areas most impacted by H.R. 1. The office of financial

1 management has said that "H.R. 1 will influence how Washingtonians
2 access basic services, get health care, and pursue education."

3 (3) The legislature finds that programs thousands of
4 Washingtonians depend upon will be defunded as a result of H.R. 1.
5 Washington state stands to lose up to \$51 billion in federal medicaid
6 funding in the next decade. 250,000 Washingtonians are thus in danger
7 of losing medicaid coverage, and another 150,000 Washingtonians are
8 at risk of losing access to the state's health care exchange. H.R. 1
9 would negatively impact urban health clinics and force many rural
10 hospitals to close. According to the department of social and health
11 services, 200,000 Washingtonians may lose access to food stamps due
12 to newly mandated work requirements, immigrant eligibility
13 requirements, and standard utility deductions. The state department
14 of social and health services has noted that "H.R. 1 ends long-
15 standing Supplemental Nutrition Assistance Program eligibility for
16 refugees, asylees, and Afghan and Ukrainian Humanitarian Parolees."
17 H.R. 1 will shift the cost of administering these SNAP benefits to
18 Washington state, a new cost state-level burden of roughly
19 \$35,000,000 in annual expenses and perhaps more when costs beyond
20 immigrant eligibility are incorporated. H.R. 1 will eliminate
21 financial assistance for thousands of Washingtonians pursuing higher
22 education. It will also repeal clean energy project tax credits.
23 Additional strain on Washington state and local budgets will result
24 from the Trump administration cuts to the department of housing and
25 urban development.

26 (4) Though the legislature finds that many of the austerity
27 measures of H.R. 1 already began in 2025, the legislature also finds
28 that it has a window of opportunity to mitigate H.R. 1 before it goes
29 into full effect in 2027 and 2028. The legislature finds that failure
30 to take proactive measures to fill funding gaps created by H.R. 1
31 before they occur will result in greater, avoidable costs to
32 Washington state, and greater hardship endured by Washingtonians.

33 (5) The legislature finds that H.R. 1 defunds the public sector
34 in order to grant massive tax breaks to American corporations. H.R. 1
35 extends \$148 billion in tax cuts to companies that comprise the S&P
36 500 stock market index. The richest one percent of Americans will
37 receive an estimated \$121 billion in net tax cuts in 2026 as a result
38 of H.R. 1. T-Mobile will see a \$1.5 billion tax break in 2026.
39 Amazon's cash flow will be raised by \$15 billion annually between
40 2025-2027. Also as a result of H.R. 1, Microsoft was permitted to

1 deduct \$69.7 billion in capital expenditures from federal tax
2 reporting in 2025. The legislature finds that many of these tax
3 breaks go to companies that are either headquartered in Washington
4 state, or that have a heavy presence here.

5 (6) The legislature finds that windfall corporate tax benefits
6 will accrue as Washington has one of the most corporate-friendly tax
7 regimes of any state in the country. In chapter 421, Laws of 2025
8 (Engrossed Substitute Senate Bill No. 5813), the legislature found
9 that "Washington's tax system remains the second most regressive in
10 the nation as it asks those with the least to pay the most as a
11 percentage of their income." In that law, the legislature affirmed
12 "that a tax system that is fair and works for everyone is essential
13 to help Washingtonians thrive." The legislature finds that the
14 regressivity of Washington's tax code contributes to budgetary
15 shortfalls of the state's own making, worsening the impact of
16 regressive federal tax policy.

17 (7) The legislature finds that Washington state businesses depend
18 upon a healthy economic climate to reap profits and create jobs. The
19 proliferation of high-earning jobs is a strong indicator of the
20 economic health of a large operating company that has enjoyed the
21 many benefits of doing business in Washington state. The legislature
22 finds that substantial federal divestment from Washington state will
23 harm these businesses. Washington's department of social and health
24 services estimates that for every \$1.00 of supplemental nutrition
25 assistance program spending in the United States, \$1.50 in economic
26 activity is generated.

27 (8) The legislature finds that all high earners in the United
28 States are subject to an "additional medicare tax." For married
29 individuals filing separately, the surtax is .9 percent of wages made
30 above the \$125,000 threshold; unlike the standard medicare tax, this
31 surtax is not divided equally between the worker and their boss. The
32 legislature finds that if employees can bolster the social safety
33 net, so can their employers.

34 (9) Therefore, the legislature intends to create the "well
35 Washington fund account" to maintain the economic health of
36 Washington state.

37 PART II

38 WELL WASHINGTON FUND ACCOUNT

1 medicaid, cash assistance programs and especially food assistance,
2 housing, and the environment.

3 (d) A nonvoting member in the employ of the Washington employment
4 security department, appointed to glean the intent and
5 recommendations emerging from the well Washington fund oversight and
6 accountability board.

7 (2) Board members shall hold their offices for a term of three
8 years and until their successors are appointed. The board shall have
9 two cochair. One of the cochair shall be one of the gubernatorial
10 appointees and designated by the governor, and the other cochair,
11 selected by the house, shall be one of the house members or
12 appointees outlined in this section. Thirteen voting members of the
13 board constitute a quorum for the transaction of business. The board
14 shall meet three times per year.

15 (3) The purposes of the board are to:

16 (a) Provide guidance and recommendations to the legislature on
17 emergent funding needs due to the actuality or potentiality of
18 federal funding withdrawal from public sector spending silos
19 identified in this act; and

20 (b) Ensure accountability that the well Washington fund account
21 is producing the intended results with respect to reducing and
22 mitigating the impact of federal austerity budgeting in key silos of
23 public sector spending in Washington state.

24 (4) The board shall report its recommendations to the house
25 appropriations and senate ways and means committees of the
26 legislature, or their successor committees, by November 1st of each
27 year.

28 **PART IV**

29 **HIGH EARNERS PAYROLL TAX ON LARGE OPERATING COMPANIES**

30 NEW SECTION. **Sec. 4.** TAX IMPOSED. (1) Beginning October 15,
31 2026, a payroll expense tax on high earning jobs is levied on large
32 operating companies engaged in business within the state of
33 Washington as provided in this section. The payroll expense tax is
34 the total amount of calendar year wages for each employee in
35 employment of the employer in excess of the minimum wages subject to
36 the additional medicare tax, as determined by treasury decision 9645
37 of the internal revenue service, multiplied by a rate of five
38 percent.

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

3 (b) In the payment of any taxes provided in this section, a
4 fractional part of a cent is disregarded unless it amounts to one-
5 half cent or more, in which case it is increased to one cent.

6 (3) The commissioner must annually set the employee wage amount
7 excluded from tax under this section in an amount less than the
8 minimum wages subject to taxation for the additional medicare tax as
9 determined by treasury decision 9645 of the internal revenue service.

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

13 NEW SECTION. **Sec. 5.** CREDIT. (1) In computing the tax due under
14 this chapter, a credit is allowed against the tax imposed in this
15 chapter and in accordance with this section, for any eligible city
16 payroll expense tax already paid by the employer as of October 15,
17 2026.

18 (2) (a) The amount of credit is equal to the total amount of
19 eligible city payroll expense tax remitted to the city during the
20 immediately prior state tax reporting period. The amount of the
21 credit may not exceed the tax that would be owed for the city payroll
22 expense tax in effect on February 1st of each year.

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

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

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

31 (5) For the purpose of this section, "eligible city payroll
32 expense tax" means a tax that is measured by annual employee
33 compensation and imposed by a city.

34 NEW SECTION. **Sec. 6.** DEFINITIONS. The definitions in this
35 section apply throughout this chapter unless the context clearly
36 requires otherwise.

37 (1) "Commissioner" means the commissioner of the employment
38 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" means an employer as defined in RCW 50A.05.010
4 that is also a large operating company.
5 (5) "Employment" means personal service, of whatever nature, as
6 known to the common law or any other legal relationship performed for
7 wages or under any contract calling for the performance of personal
8 services, written or oral, express or implied. "Employment" includes
9 an individual's entire service performed within or without or both
10 within and without this state, if:
11 (a) The service is localized in this state; or
12 (b) The service is not localized in any state, but some of the
13 service is performed in this state; and
14 (i) The base of operations of the employee is in this state, or
15 if there is no base of operations, then the place from which such
16 service is directed or controlled is in this state; or
17 (ii) The base of operations or place from which such service is
18 directed or controlled is not in any state in which some part of the
19 service is performed, but the individual's residence is in this
20 state.
21 (6) "High earning job" means a job with wages that are in excess
22 of the minimum wages subject to the additional medicare tax, set at
23 \$125,000 by treasury decision 9645 of the internal revenue service.
24 (7) (a) "Large operating company" means a company that employs 250
25 or more people and has \$7,000,000 in annual payroll expenses.
26 (b) (i) "Large operating company" does not include a health care
27 facility as defined in RCW 48.43.005, a health care provider as
28 defined in RCW 48.43.005, or a health system that owns or operates
29 one or more hospitals licensed under chapter 70.41 or 71.12 RCW.
30 (ii) "Large operating company" does not include any constituted
31 school district, local government, quasimunicipal corporation,
32 political subdivision, or state agency.
33 (8) "Remuneration" has the same meaning as provided in RCW
34 50A.05.010.
35 (9) "Service is localized in this state" has the same meaning as
36 in RCW 50A.05.010.
37 (10) "Wages" means the remuneration paid by an employer to an
38 employee.

1 NEW SECTION. **Sec. 7.** EMPLOYER REQUIREMENTS. (1) In the form and
2 at the times specified in this chapter and by the commissioner, an
3 employer shall make reports, furnish information, and collect and
4 remit taxes as required by this chapter to the department. If the
5 employer is a temporary help company that provides employees on a
6 temporary basis to its customers, the temporary help company is the
7 employer for purposes of this section.

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

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

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

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

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

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

34 (d) An officer, member, or owner having either control or
35 supervision of payment or reporting of excess compensation taxes, or
36 both, or who is charged with the responsibility for the filing of
37 returns, in the manner specified in section 10 of this act.

38 (4) Appeals are governed by section 23 of this act.

1 NEW SECTION. **Sec. 8.** EMPLOYER PENALTIES. (1) An employer who
2 willfully fails to make the required reports is subject to penalties
3 as follows: (a) For the second occurrence, the penalty is \$75; (b)
4 for the third occurrence, the penalty is \$150; and (c) for the fourth
5 occurrence and for each occurrence thereafter, the penalty is \$250.

6 (2) An employer who willfully fails to remit the full amount of
7 taxes when due is liable, in addition to the full amount of taxes due
8 and amounts assessed as interest under section 9 of this act, to a
9 penalty equal to the tax and interest.

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

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

15 (5)(a) Beginning January 1, 2027, the department shall enforce
16 the collection of penalties and interest pursuant to this section and
17 section 9 of this act for any penalties and interest accruing after
18 the effective date of this section.

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

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

22 NEW SECTION. **Sec. 9.** DELINQUENCY—ACCRUAL OF INTEREST. If taxes
23 are not paid on the date on which they are due and payable as
24 prescribed by the commissioner, the whole or part thereof remaining
25 unpaid must bear interest at the rate of one percent per month or
26 fraction thereof from and after such date until payment plus accrued
27 interest is received by the commissioner. The date as of which
28 payment of taxes, if mailed, is deemed to have been received may be
29 determined by such rules as the commissioner may prescribe. Interest
30 collected pursuant to this section must be paid into the general fund
31 of the state. Interest may not accrue on taxes from any estate in the
32 hands of a receiver, executor, administrator, trustee in bankruptcy,
33 common law assignee, or other liquidating officer subsequent to the
34 date when such receiver, executor, administrator, trustee in
35 bankruptcy, common law assignee, or other liquidating officer
36 qualifies as such, but taxes accruing with respect to employment of
37 persons by any receiver, executor, administrator, trustee in
38 bankruptcy, common law assignee, or other liquidating officer become
39 due and draw interest in the same manner as taxes due from other

1 employers. Where adequate information has been furnished to the
2 department and the department has failed to act or has advised the
3 employer of no liability or inability to decide the issue, interest
4 may be waived.

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

30 NEW SECTION. **Sec. 11.** DELINQUENCY—ORDER AND NOTICE OF
31 ASSESSMENT. At any time after the commissioner shall find that any
32 tax, interest, or penalties have become delinquent, the commissioner
33 may issue an order and notice of assessment specifying the amount
34 due, which order and notice of assessment shall be served upon the
35 delinquent employer in the manner prescribed for the service of a
36 summons in a civil action, or using a method by which the mailing can
37 be tracked or the delivery can be confirmed. Failure of the employer

1 to receive such notice or order whether served or mailed shall not
2 release the employer from any tax, or any interest or penalties
3 thereon.

4 NEW SECTION. **Sec. 12.** JEOPARDIZED COLLECTION—IMMEDIATE
5 ASSESSMENT. If the commissioner has reason to believe that an
6 employer is insolvent or if any reason exists why the collection of
7 any taxes accrued will be jeopardized by delaying collection, the
8 commissioner may make an immediate assessment thereof and may proceed
9 to enforce collection immediately, but interest and penalties shall
10 not begin to accrue upon any taxes until the date when such taxes
11 would normally have become delinquent.

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

23 NEW SECTION. **Sec. 14.** COLLECTION BY DISTRAINT, SEIZURE, AND
24 SALE—PROCEDURE. The commissioner, upon making a distraint, must seize
25 the property and must make an inventory of the property distrained, a
26 copy of which must be mailed to the owner of such property or
27 personally delivered to the owner, and must specify the time and
28 place when such property must be sold. A notice specifying the
29 property to be sold and the time and place of sale must be posted in
30 at least two public places in the county wherein the seizure has been
31 made. The time of sale may be not less than 10 nor more than 20 days
32 from the date of posting of such notices. The sale may be adjourned
33 from time to time at the discretion of the commissioner, but not for
34 a time to exceed in all 60 days. The sale must be conducted by the
35 commissioner or the commissioner's authorized representative who
36 proceeds to sell such property by parcel or by lot at a public
37 auction, and who may set a minimum price to include the expenses of

1 making a levy and of advertising the sale, and if the amount bid for
2 such property at the sale is not equal to the minimum price so fixed,
3 the commissioner or the commissioner's representative may declare
4 such property to be purchased by the department for such minimum
5 price. In such event the delinquent account must be credited with the
6 amount for which the property has been sold. Property acquired by the
7 department as prescribed in this section may be sold by the
8 commissioner or the commissioner's representative at public or
9 private sale, and the amount realized must be placed in the general
10 fund of the state. In all cases of sale, as provided in this section,
11 the commissioner must issue a bill of sale or a deed to the purchaser
12 and such bill of sale or deed is prima facie evidence of the right of
13 the commissioner to make such sale and conclusive evidence of the
14 regularity of the commissioner's proceeding in making the sale, and
15 must transfer to the purchaser all right, title, and interest of the
16 delinquent employer in said property. The proceeds of any such sale,
17 except in those cases wherein the property has been acquired by the
18 department, must be first applied by the commissioner in satisfaction
19 of the delinquent account, and out of any sum received in excess of
20 the amount of delinquent tax, interest, and penalties the
21 administration fund must be reimbursed for the costs of distraint and
22 sale. Any excess that thereafter remains in the hands of the
23 commissioner must be refunded to the delinquent employer. Sums so
24 refundable to a delinquent employer may be subject to seizure or
25 distraint in the hands of the commissioner by any other taxing
26 authority of the state or its political subdivisions.

27 NEW SECTION. **Sec. 15.** NOTICE AND ORDER TO WITHHOLD AND DELIVER.
28 The commissioner may issue to any person, firm, corporation,
29 political subdivision, or department of the state, a notice and order
30 to withhold and deliver property of any kind whatsoever when the
31 commissioner has reason to believe that there is in the possession of
32 such person, firm, corporation, political subdivision, or department,
33 property which is due, owing, or belonging to any person, firm, or
34 corporation upon whom the department has served a notice and order of
35 assessment for tax, interest, or penalties. The effect of a notice to
36 withhold and deliver shall be continuous from the date such notice
37 and order to withhold and deliver is first made until the liability
38 is satisfied or becomes unenforceable because of a lapse of time. The
39 notice and order to withhold and deliver shall be served by the

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

25 NEW SECTION. **Sec. 16.** WARRANT FOR ASSESSMENT. Whenever any
26 order and notice of assessment or jeopardy assessment has become
27 final in accordance with the provisions of this chapter the
28 commissioner may file with the clerk of any county within the state a
29 warrant in the amount of the notice of assessment plus interest,
30 penalties, and a filing fee under RCW 36.18.012(10). The clerk of the
31 county wherein the warrant is filed shall immediately designate a
32 superior court cause number for such warrant, and the clerk shall
33 cause to be entered in the judgment docket under the superior court
34 cause number assigned to the warrant, the name of the employer
35 mentioned in the warrant, the amount of the tax, interest, penalties,
36 and filing fee, and the date when such warrant was filed. The
37 aggregate amount of such warrant as docketed shall become a lien upon
38 the title to, and interest in all real and personal property of the
39 employer against whom the warrant is issued, the same as a judgment

1 in a civil case duly docketed in the office of such clerk. Such
2 warrant so docketed shall be sufficient to support the issuance of
3 writs of execution and writs of garnishment in favor of the state in
4 the manner provided by law in the case of civil judgment, wholly or
5 partially unsatisfied. The clerk of the court shall be entitled to a
6 filing fee under RCW 36.18.012(10), which shall be added to the
7 amount of the warrant, and charged by the commissioner to the
8 employer. A copy of the warrant shall be mailed to the employer using
9 a method by which the mailing can be tracked or the delivery can be
10 confirmed within five days of filing with the clerk.

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

36 NEW SECTION. **Sec. 18.** LIENS—INSOLVENCY, DISSOLUTION, OR
37 DISTRIBUTION OF ASSETS. In the event of any distribution of an
38 employer's assets pursuant to an order of any court, including any

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

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

30 (2) Any employer that is not a resident of this state and that
31 exercises the privilege of having one or more individuals perform
32 service for it within this state, and any resident employer that
33 exercises that privilege and thereafter removes from this state,
34 shall be deemed thereby to appoint the secretary of state as its
35 agent and attorney for the acceptance of process in any action under
36 this chapter. In instituting such an action against any such employer
37 the commissioner shall cause such process or notice to be filed with
38 the secretary of state and such service shall be sufficient service
39 upon such employer, and shall be of the same force and validity as if

1 served upon it personally within this state if the commissioner shall
2 forthwith send notice of the service of such process or notice,
3 together with a copy thereof, by registered mail, return receipt
4 requested, to such employer at its last known address and such return
5 receipt, the commissioner's affidavit of compliance with the
6 provisions of this section, and a copy of the notice of service shall
7 be appended to the original of the process filed in the court in
8 which such action is pending.

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

27 NEW SECTION. **Sec. 21.** COMPROMISE OF CLAIMS. The commissioner
28 may compromise any claim for tax, interest, or penalties due and
29 owing from an employer where collection of the full amount due and
30 owing, whether reduced to judgment or otherwise, would be against
31 equity and good conscience. Whenever a compromise is made by the
32 commissioner in the case of a claim for tax, interest, or penalties,
33 whether reduced to judgment or otherwise, there shall be placed on
34 file in the department a statement of the amount of tax, interest,
35 and penalties imposed by law and claimed due, attorneys' fees and
36 costs, if any, a complete record of the compromise agreement, and the
37 amount actually paid in accordance with the terms of the compromise
38 agreement. If any such compromise is accepted by the commissioner,

1 within such time as may be stated in the compromise or agreed to,
2 such compromise shall be final and conclusive and except upon showing
3 of fraud or malfeasance or misrepresentation of a material fact the
4 case shall not be reopened as to the matters agreed upon. In any
5 suit, action, or proceeding, such agreement or any determination,
6 collection, payment, adjustment, refund, or credit made in accordance
7 therewith shall not be annulled, modified, set aside, or disregarded.

8 NEW SECTION. **Sec. 22.** UNCOLLECTIBLE ACCOUNTS. The commissioner
9 may charge off as uncollectible and no longer an asset of the general
10 fund of the state, any delinquent tax, interest, penalties, or
11 credits if the commissioner is satisfied that there are no cost-
12 effective means of collecting the tax, interest, or penalties.

13 NEW SECTION. **Sec. 23.** GENERALLY. (1) Any aggrieved party may
14 file an appeal from any determination or redetermination with the
15 commissioner within 30 days after the date of notification or
16 mailing, whichever is earlier, of such determination or
17 redetermination to the party's last known address. If an appeal with
18 respect to any determination is pending as of the date when a
19 redetermination is issued, such appeal, unless withdrawn, shall be
20 treated as an appeal from such redetermination.

21 (2) Upon receipt of a notice of appeal, the commissioner shall
22 request the assignment of an administrative law judge under chapter
23 34.12 RCW to conduct a hearing in accordance with chapter 34.05 RCW
24 and issue a proposed order.

25 NEW SECTION. **Sec. 24.** ASSESSMENTS. (1) When an order and notice
26 of assessment has been served upon or mailed to a delinquent
27 employer, the employer may within 30 days file an appeal with the
28 department, stating that the assessment is unjust or incorrect and
29 requesting a hearing. The appeal must set forth the reasons why the
30 assessment is objected to and the amount of tax, if any, which the
31 employer admits to be due. If no appeal is filed, the assessment
32 shall be conclusively deemed to be just and correct except that in
33 such case, and in cases where payment of tax, interest, or penalties
34 has been made pursuant to a jeopardy assessment, the commissioner may
35 properly entertain a subsequent application for refund. The filing of
36 an appeal on a disputed assessment with the administrative law judge
37 stays the distraint and sale proceeding provided for in this chapter

1 until a final decision has been made, but the filing of an appeal
2 shall not affect the right of the commissioner to perfect a lien, as
3 provided by this chapter, upon the property of the employer. The
4 filing of a petition on a disputed assessment stays the accrual of
5 interest and penalties on the disputed taxes until a final decision
6 is made.

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

16 NEW SECTION. **Sec. 25.** WHEN DEEMED FILED AND RECEIVED. The
17 appeal or petition from a determination, redetermination, order and
18 notice of assessment, appeals decision, or commissioner's decision is
19 deemed filed and received if properly addressed and with sufficient
20 postage:

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

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

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

32 NEW SECTION. **Sec. 26.** ASSESSMENTS—PROCEDURE. In any proceeding
33 before an administrative law judge involving an appeal from a
34 disputed order and notice of assessment or a disputed denial of
35 refund or adjustment, the administrative law judge, after affording
36 the parties a reasonable opportunity for hearing, shall affirm,
37 modify, or set aside the notice of assessment or denial of refund.
38 The parties shall be duly notified of such decision together with the

1 reasons, which shall be deemed to be the final decision unless within
2 30 days after the date of notification or mailing, whichever is the
3 earlier, of such decision, further appeal is perfected pursuant to
4 the provisions of this chapter relating to review by the
5 commissioner.

6 NEW SECTION. **Sec. 27.** HEARING PROCEDURES. The manner in which
7 any dispute is presented to the administrative law judge, and the
8 conduct of hearings and appeals, shall be in accordance with rules
9 adopted by the commissioner. A full and complete record shall be kept
10 of all administrative law judge proceedings. All testimony at any
11 appeal hearing shall be recorded, but need not be transcribed unless
12 further appeal is taken.

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

32 NEW SECTION. **Sec. 29.** COMMISSIONER REVIEW—PROCEDURE. After
33 having acquired jurisdiction for review, the commissioner shall
34 review the proceedings in question. Prior to rendering a decision,
35 the commissioner may order the taking of additional evidence by an
36 administrative law judge to be made a part of the record in the case.
37 Upon the basis of evidence submitted to the administrative law judge

1 and such additional evidence as the commissioner may order to be
2 taken, the commissioner shall render a decision in writing affirming,
3 modifying, or setting aside the decision of the administrative law
4 judge. Alternatively, the commissioner may order further proceedings
5 to be held before the administrative law judge, upon completion of
6 which the administrative law judge shall issue a new decision in
7 writing affirming, modifying, or setting aside the previous decision
8 of the administrative law judge. The new decision of the
9 administrative law judge may be appealed as provided under section 28
10 of this act. The commissioner shall mail the decision of the
11 commissioner to the interested parties at their last known addresses.

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

20 NEW SECTION. **Sec. 31.** APPLICABILITY OF FINDINGS,
21 DETERMINATIONS, ETC., TO OTHER ACTIONS. Any finding, determination,
22 conclusion, declaration, or final order made by the commissioner, or
23 the commissioner's representative or delegate, or by an appeal
24 tribunal, administrative law judge, reviewing officer, or other agent
25 of the department for the purposes of this chapter, shall not be
26 conclusive, nor binding, nor admissible as evidence in any separate
27 action outside the scope of this chapter between an employee and the
28 employee's present or prior employer before an arbitrator, court, or
29 judge of this state or the United States, regardless of whether the
30 prior action was between the same or related parties or involved the
31 same facts or was reviewed pursuant to section 34 of this act.

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

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

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

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

18 NEW SECTION. **Sec. 34.** JUDICIAL REVIEW—PROCEDURE. Judicial
19 review of a decision of the commissioner involving the review of a
20 decision of an administrative law judge under this chapter may be had
21 only in accordance with the procedural requirements of RCW 34.05.452.

22 NEW SECTION. **Sec. 35.** REMEDIES EXCLUSIVE. The remedies provided
23 in this chapter for determining the justness or correctness of
24 assessments, refunds, adjustments, or claims shall be exclusive and
25 no court shall entertain any action to enjoin an assessment or
26 require a refund or adjustment except in accordance with the
27 provisions of this chapter. Matters which may be determined by the
28 procedures set out in this chapter shall not be the subject of any
29 declaratory judgment.

30 NEW SECTION. **Sec. 36.** DEPOSITING FUNDS. (1) Until October 15,
31 2027, all tax, interest, and penalties collected under this chapter
32 must be deposited in the general fund of the state.

33 (2) Beginning October 15, 2027, 51 percent of all taxes collected
34 under this chapter must be deposited in the well Washington fund
35 account; and the remaining 49 percent, as well as all interest and
36 penalties collected under this chapter, must be deposited in the
37 general fund of the state.

