

SENATE BILL REPORT

SB 5799

As Reported by Senate Committee On:
Business, Financial Services & Trade, January 27, 2022
Ways & Means, February 24, 2022

Title: An act relating to modifying the application of the workforce education investment surcharge to provider clinics and affiliated organizations.

Brief Description: Modifying the application of the workforce education investment surcharge to provider clinics and affiliated organizations. [**Revised for 1st Substitute:** Modifying the application of the workforce education investment advanced computing surcharge to provider clinics and affiliated organizations.]

Sponsors: Senators Robinson and Lovick.

Brief History:

Committee Activity: Business, Financial Services & Trade: 1/18/22, 1/27/22 [DPS-WM].
Ways & Means: 2/17/22, 2/24/22 [DPS (BFST)].

Brief Summary of First Substitute Bill

- Exempts provider clinics and affiliated organizations from the workforce education investment surcharge.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Majority Report: That Substitute Senate Bill No. 5799 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Dozier, Ranking Member; Brown, Frockt, Lovick and Wilson, L.

Staff: Jeffrey Mitchell (786-7438)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5799 as recommended by Committee on Business, Financial Services & Trade be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Billig, Braun, Carlyle, Conway, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Mullet, Muzzall, Pedersen, Van De Wege, Wagoner, Warnick and Wellman.

Staff: Jeffrey Mitchell (786-7438)

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent—businesses with taxable income of less than \$1 million 1.75 percent—businesses with taxable income of \$1 million or more for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

Beginning with business activities occurring on or after April 1, 2020, an additional workforce education investment surcharge was applied to the amount of tax payable under the Service and Other Activities B&O tax classification by select advanced computing businesses. A select advance computing business is a business, or member of an affiliated group, with at least one member engaged in advanced computing and the affiliated group has more than \$25 billion in worldwide gross income in the immediately preceding calendar year. The surcharge is equal to the gross income of the business subject to B&O tax under the Service and Other Activities classification, multiplied by the rate of 1.22 percent. This is in addition to the Service and Other Activities B&O tax rate of 1.5 percent, for a total of 2.72 percent. The amount of surcharge owed by a business or an affiliated group is capped at \$9 million annually. The surcharge does not apply to hospitals or financial institutions.

Legislation that establishes or expands a tax preference, such as a tax exemption, deduction, or preferential rate, must include a Tax Preference Performance statement that identifies the public policy objective of the tax preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. A new tax preference automatically expires after ten years unless an alternative expiration date is provided or the tax preference is exempt from the automatic expiration date in the bill.

Summary of Bill (First Substitute): The following entities are exempt from the workforce

education investment surcharge:

- provider clinics offering primary care, multi-specialty, and surgical services, including behavioral health services; and
- affiliates of the provider clinic if the affiliate is an organization that offers health care services or provides administrative support for a provider clinic, or is an independent practice association or accountable care organization.

The exemption for provider clinics and affiliated entities is subject to the automatic ten-year expiration date and JLARC review.

EFFECT OF CHANGES MADE BY BUSINESS, FINANCIAL SERVICES & TRADE COMMITTEE (First Substitute):

Changes the title of the bill to "Relating to modifying the application of the workforce education investment advanced computing surcharge to provider clinics an affiliated organizations."

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2022.

Staff Summary of Public Testimony on Original Bill (Business, Financial Services & Trade): *The committee recommended a different version of the bill than what was heard.*

PRO: The Everett Clinic is part of a much broader corporate structure. As a result of this, the Everett Clinic was caught up in the advanced computing surcharge. This bill would remove the medical clinics from the advanced computing surcharge. This will allow them to maximize their resources for providing health care. The changes in this bill address an unintended consequence of the advanced computing surcharge. This unintended consequence impacts health care affordability. Hospitals are exempt from the advanced computing surcharge, but health care provider clinics are not. This bill would align the law and create consistency for provider clinics. We believe there are very few clinics that would pay the surcharge. We are committed to reinvesting these dollars in support of our clinical workforce. This is a minor technical issue with the law. This bill would put all physician organizations on the same footing and promote fairness and affordability.

Persons Testifying (Business, Financial Services & Trade): PRO: Senator June Robinson, Prime Sponsor; Nariman Heshmati, The Everett Clinic; Sean Graham, WA State Medical Association (WSMA).

Persons Signed In To Testify But Not Testifying (Business, Financial Services &

Trade): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This bill was brought to me by the Everett Clinic, a large primary care and multi-specialty clinic that inadvertently got caught up in the advanced computing surcharge. This bill is intended to correct an unintended result. This bill will put all physician organizations on the same footing for B&O tax purposes. This bill provides fairness and increases affordability in the health care system. Currently, hospitals have an exemption from the advanced computing surcharge but health-care provider clinics do not have an exemption. This bill will provide consistency. We are committed to reinvesting these dollars in support of the health care workforce and our behavioral health program. The way this bill is structured, it will be more or less a wash to the state.

Persons Testifying (Ways & Means): PRO: Senator June Robinson, Prime Sponsor; Sean Graham, WA State Medical Association (WSMA); Nari Heshmati, The Everett Clinic.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.