

# HOUSE BILL REPORT

## EHB 2487

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**As Passed House:**

March 6, 2026

**Title:** An act relating to taxes imposed on insurers operating within the state.

**Brief Description:** Concerning taxes imposed on insurers operating within the state.

**Sponsors:** Representative Macri; by request of Department of Revenue.

**Brief History:**

**Committee Activity:**

Finance: 1/30/26, 2/9/26 [DP].

**Floor Activity:**

Passed House: 3/6/26, 51-44.

**Brief Summary of Engrossed Bill**

- Modifies the insurance premium exemption from the business and occupation tax to apply to qualifying insurance business activity, premiums and prepayments received by certain persons exempt from premium taxes; consideration received by insurers for annuities, and premiums received by assigned risk plans, subject to certain requirements.
- Directs the Department of Revenue to waive penalties and interest and enter into repayment plans for certain delinquent taxes, subject to certain requirements.
- Adds a new exemption to the workforce education investment surcharge for qualifying insurers and other entities and establishes a \$25 million surcharge maximum for qualifying members of an affiliated group.
- Establishes that portions of this act have retroactive effect.

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**HOUSE COMMITTEE ON FINANCE**

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*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.*

**Majority Report:** Do pass. Signed by 8 members: Representatives Berg, Chair; Street, Vice Chair; Mena, Ramel, Santos, Scott, Wylie and Zahn.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Abell, Chase and Penner.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Springer.

**Staff:** John Burzynski (786-7133).

### **Background:**

Washington imposes a tax on insurers equal to 2 percent of all premiums the insurer collects or receives, subject to certain exceptions. This premium tax is imposed in lieu of all other taxes, except as otherwise provided. Accordingly, Washington provides an exemption from its business and occupation (B&O) tax for any person, in respect to insurance business, upon which a tax based on gross premiums is paid to the state, subject to various exceptions.

In *Armstrong v. State* (1962), the Washington Supreme Court recognized the in-lieu-of nature of the state's insurance premium tax and noted it reflected a legislative decision to consider the gross premium tax as the exclusive tax on insurance company operations while exempting such entities from the state B&O tax.

In *Envolve Pharmacy Solutions, Inc. v. Dept of Revenue* (2024), the Washington Supreme Court held the insurance premium exemption from the B&O tax applied to a pharmacy benefit manager and potentially other business entities that do not directly earn premium income or pay a premium tax. The court reasoned the exemption's statutory text did not require the insurance business doing the work at issue to directly pay a premium tax on that business to qualify for the exemption. Instead, the court reasoned, the Legislature used the passive voice to say that a premium tax must have been paid on the business, without describing by whom, for the tax exemption to apply.

### **Summary of Engrossed Bill:**

#### Insurance Premium Tax Exemption.

The insurance premium exemption to the B&O tax is modified such that the tax does not apply to: (1) insurance business activity performed by an insurer that is directly subject to the payment of insurance premium taxes in Washington, subject to the rule that only the person who paid the insurance premium tax can claim this exemption; (2) gross premiums and prepayments received by a person that is exempt from premium taxes under state law; (3) consideration received by an insurer for annuities regulated under state law; or (4) gross premiums received by an assigned risk plan established by an act of the Legislature, either

directly or indirectly, where premium taxes were paid by a servicing carrier for such assigned risk plan.

This change to the insurance premium exemption to the B&O tax applies both prospectively and retroactively to October 2, 2019.

The Department of Revenue (DOR) must consult with the Office of the Insurance Commissioner to adopt rules, and draft and issue tax guidance, to carry out the purpose and facilitate enforcement of this exemption.

Waiver of Interest and Penalties: Repayment Plans.

The DOR is directed to waive penalties and interest, and allow any person who owes delinquent taxes to enter into a three-year repayment schedule, for B&O taxes otherwise due as a result of a person taking an insurance premium exemption on gross income not subject to that exemption, but only if the taxes, penalties, and interest owed are for taxes due on gross income of the business between October 2, 2019, and March 31, 2026. Waiver under this provision is subject to various requirements and limitations. This provision expires on January 1, 2029.

Workforce Education Investment Surcharge Exemption.

A new exemption is added to the Workforce Education Investment Surcharge for insurers, health maintenance organizations, and health care service contractors required to report and pay insurance premium taxes to the state during the same reporting period, and persons exempt from premium taxes during the same reporting period.

The combined surcharge maximum of \$75 million for members of an affiliated group is reduced to \$25 million when 50 percent or more of the worldwide gross revenue of all members of an affiliated group is from the payment of insurance premiums during the immediately preceding calendar year.

This exemption and surcharge maximum applies both prospectively and retroactively to January 1, 2022.

Defined Terms.

"Insurance business" means activities performed by an insurer as defined by state law for which insurance premium taxes are paid.

"Insurer" means every person engaged in the business of making contracts of insurance, subject to certain inclusions and exclusions listed in statute, and also includes health maintenance organizations and health care service contractors regulated under state law.

"Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of

Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. "Person" includes a surplus line broker who pays premium taxes pursuant to state law.

"Premium" means all sums charged, received, or deposited as consideration for an insurance contract or the continuance thereof, excluding certain regulatory surcharges.

Additional Provisions.

The insurance premium exemptions to the B&O tax for qualifying insurers and health maintenance organizations are consolidated into a single section in the revised code.

The act does not affect any final judgment that is no longer subject to appeal and entered by a court of competent jurisdiction before the act's effective date.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 9, 2026.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The Legislature made a deliberate choice to create an insurance premium tax and create an exemption to the B&O tax to prevent double taxation. The exemption statute is old and written in the passive voice. When the law was written, the drafters did not envision the complexity of modern arrangements in the insurance field. Over the past 15 years, there has been significant consolidation in the health insurance industry.

The Washington Supreme Court interpreted the exemption to apply to any downstream business of an insurance company. This bill is designed to update and clarify statutory language without changing intent, and ensure the state is not double-dipping on taxes, exempting downstream businesses, or favoring one industry. Downstream businesses can be completely distinct from or a subsidiary serving one or more insurance companies.

If the Legislature does not take any action, the effect will be that businesses downstream of insurance companies could be exempt from the B&O tax. The implications of this are broad. This is a practical challenge of both fairness and real dollars. If the Legislature does not respond to the Washington Supreme Court's decision, it will open a hole in the state's tax base and the state will need to issue tax refunds of the full amount listed in the fiscal note.

The bill has retroactive application back to 2019 because that was when the Department of

Revenue (DOR) issued guidance on the exemption.

This is agency request legislation from the DOR. The bill is about tax equity and ensuring there is a level playing field. The bill changes nothing for insurers who pay the premium tax. This legislation tightens the exemption for other businesses to ensure they cannot take the B&O exemption. The bill is a reasonable policy response to restore the original intent of the law.

Insurers report billions in surplus and profits while Washingtonians are struggling.

(Opposed) Making the bill retroactive to 2019 will result in a 1 to 2 percent increase in premiums. This is a retroactive tax. This bill will impose unfair double taxation and retroactivity. The bill's retroactivity provisions should be removed.

Third party services are subject to the B&O tax. Insurers do not own pharmacy benefit managers, but as worded the bill will tax internal support services like actuarial and legal services. These services exist solely to support the insurance company. Such services are not subject to the B&O tax.

Insurers paid tens of millions to the State General Fund in 2025. Those costs must be passed on to consumers. Insurers are taxed on gross receipts, not profits. Those taxes are borne by customers who are experiencing an affordability crisis. The bill may place upward pressure on premiums over time.

By narrowing the B&O tax exemption, this bill will increase the tax burden on noninsurance entities.

Insurance premiums are not set arbitrarily; they are based on costs and taxes. This legislation will not make costs disappear but will result in them being passed on through higher premiums.

This bill overrides settled law and raises due process concerns. The bill's language is ambiguous and conflicts with the premium tax law. It is unclear if the B&O tax applies to dental expenses and other products.

The DOR may change its interpretations of the scope of the B&O tax exemption at a future date. Insurance activities could be deemed not covered by the insurance premium tax.

**Persons Testifying:** (In support) Representative Nicole Macri, prime sponsor; Sam Hatzenbeler, Economic Opportunity Institute; Steve Ewing, Dept. of Revenue; and Jim Freeburg, Patient Coalition of Washington.

(Opposed) Anthony Mixer, Citizen Volunteer Lobbyist; Carrie Tellefson, Regence Blue Shield; Christine Brewer, Premera Blue Cross; Max Martin, Association of Washington

Business; David Foster, Assoc of WA Healthcare Plans; Bill Stauffacher, Coordinated Care of WA; Kenton Brine, NW Insurance Council; and Kris Tefft, The American Council of Life Insurers (ACLI).

**Persons Signed In To Testify But Not Testifying:** None.