

# SENATE BILL REPORT

## EHB 2487

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As of March 9, 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:** Passed House: 3/6/26, 51-44.

**Committee Activity:** Ways & Means: 3/09/26.

### Brief Summary of Bill

- Specifies that the business and occupation tax exemption for insurance businesses applies only to the insurer directly paying the premium tax on premium revenues.
- Specifies that the business and occupation tax exemption also applies to amounts received for annuities, assigned risk plans, or as part of certain state or federal-funded health programs.
- Lowers the annual cap on the workforce education investment surcharge for an affiliated group from \$75,000,000 to \$25,000,000 if 50 percent or more of the worldwide gross revenue of the affiliated group is from insurance premiums during the immediately preceding calendar year.
- Exempts insurance businesses required to report and pay insurance premium taxes from the advanced computing surcharge.
- Applies the various changes retroactively.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jeffrey Mitchell (786-7438)

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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.*

**Background:** The state business and occupation (B&O) tax is Washington's major business tax. It is a gross receipts tax. It is measured on the value of products, gross proceeds of sale, or gross income of the business. While most business activities fall within the framework of the B&O tax, Washington imposes separate, standalone business taxes on a narrow range of other business activities including insurance activities. The insurance premiums tax is a tax on net premiums collected or received by insurers. Insurers paying the insurance premium tax to the Office of the Insurance Commissioner (OIC) are exempt from paying the B&O tax on gross revenue received as premiums. The statute providing the B&O tax states in part: "Except as otherwise provided in this section, this chapter does not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state." There has been an ongoing dispute between the Department of Revenue (DOR) and taxpayers regarding the scope of the exemption language. In 2019, DOR issued an interim guidance statement that explained, in part, that a person claiming the B&O exemption must show proof that the business paid premium tax to the state with respect to the gross income it claims as exempt from B&O tax.

On December 12, 2024, the Washington Supreme Court issued an opinion holding that the B&O tax exemption applies to any entity that provides goods and services functionally related to the insurer's insurance business when the insurer pays the Washington premium tax. According to the court, the exemption does not require the insurance business doing the insurance-related work to have directly paid a premium tax to qualify for the exemption. In the case at hand, one affiliate contracted with the state Health Care Authority (HCA) to administer health insurance benefits in Washington. The affiliate then contracted with a second affiliate to administer the health insurance benefits required by the HCA contract. In other words, the first affiliate collects insurance premiums and forwards a percentage of the premiums to the second affiliate for payment of its services. Under the decision, the second affiliate does not owe B&O tax—or insurance premiums tax—on the revenues it receives from the first affiliate.

A workforce education investment surcharge applies to select advanced computing businesses. This surcharge is in addition to the Service and Other Activities B&O tax rate of 1.5 percent. 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 7.5 percent. The total surcharge owed by a business, or an affiliated group, is capped at \$75 million annually.

An assigned risk plan is a type of insurance available to individuals who cannot purchase a standard policy due to factors such as high-risk employment or a history of significant insurance losses. Assigned risk plans are mandated by states to provide coverage for individuals who are denied insurance by standard insurance companies. Washington has two major assigned risk plans—one for auto insurance and one for longshore and harbor workers' compensation.

**Summary of Bill:** The B&O tax exemption for insurance businesses applies only to the

insurer paying the premium tax and is limited to the revenue on which the premium tax was paid. Non-premium payments received by insurers are exempt from the premium tax, but not the B&O tax. Businesses not directly paying the premium tax would no longer be exempt from paying the B&O tax. The B&O tax exemption also applies to gross premiums received by an insurer that are exempt from insurance premium tax as part of certain state or federal-funded health programs. The B&O tax exemption applies to consideration received by an insurer for annuities and 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.

The changes to the B&O tax exemption for insurance businesses are retroactive to October 2, 2019, but does not change any final judgment a court issued before the effective date of the bill.

For the advanced computing surcharge, the annual cap on the maximum combined surcharge paid by all members of an affiliated group is reduced from \$75,000,000 to \$25,000,000 if 50 percent or more of the worldwide gross revenue of the affiliated group is from insurance premiums during the immediately preceding calendar year.

With respect to the advanced computing surcharge, insurance-related businesses required to report and pay insurance premium taxes to the state are exempted from the surcharge.

The changes to the advance computing surcharge are retroactive to January 1, 2022.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill makes it clear that any premium income a business earns is not also subject to business and occupation tax. That was the intent of the tax exemption when it was created, and we are just making sure that the language actually applies that effect. The bill also ensures that businesses receiving income from insurers are treated the same as all other Washington businesses. This bill provides equity and a level playing field for all businesses by not having the tax code inadvertently favoring some businesses over others. When the insurance premiums tax business and occupation tax was established decades ago, the world was a much simpler place. However, over the decades, corporate structures have gotten much more complicated. Today, what was originally intended to be a protection against double taxation has evolved into a categorical tax exemption for downstream affiliates, regardless of whether those affiliates have anything to do with insurance. This doesn't make sense at a time when every revenue

dollar is precious. It is not clear why insurance carriers would make the choice to pass on the cost when many insurers are sitting on billions in surplus while everyday Washingtonians struggle.

CON: This bill is very complex. It is very difficult, at least on our end, to understand what exactly is going on. On Friday, when this bill passed over in the House, statements were made on the floor that said the Department of Revenue now estimates a loss of \$8.4 billion to \$13 billion over the four-year budget outlook. This bill is not closing a loophole as has been stated. This a new insurance tax after the Supreme Court upheld the current practice. No change to this law is better than the huge premium increases that are likely to occur later this year if this bill does in fact pass. We actually believe this legislation would result in inequitable tax treatment amongst similarly situated insurance companies simply due to a business's corporate structure. At the end of the day, this bill creates additional costs that are going to be passed down to individuals and small employers who are struggling to afford their health insurance. The cost of insuring a single employee on the state small group market has increased by an average of 10.9% over the last three years. The impact of the advanced computing surcharge combined with the regular business and occupation tax is going to make health insurance unaffordable for small businesses.

OTHER: We were concerned about the increase in taxes and also the retroactivity provision because it doesn't even sound like we know who will even be subject to retroactivity. The house version of the bill clears up a very big concern of ours by clarifying that the business and occupation tax does not apply to insurance business activity, which is key because otherwise we're afraid that the reach of the department's initial language would cover insurance business. Our earlier concern was that although life insurers are not the focus of this legislation, language in the original proposal went beyond the current tax, potentially subjecting several items, including annuities and retirement savings to the business and occupation tax; however, this has been addressed in the most recent version.

**Persons Testifying:** PRO: Jim Freeburg, Patient Coalition of Washington; Sam Hatzenbeler, Economic Opportunity Institute; Steve Ewing, Department of Revenue.

CON: David Foster, Assoc of WA Healthcare Plans (AWHP); Chris Bandoli, America's Health Insurance Plans; Emily Wittman, Association of Washington Business.

OTHER: Jean Leonard, WA Insurers; Kris Tefft, American Council of Life Insurers.

**Persons Signed In To Testify But Not Testifying:** No one.