

SENATE BILL REPORT

SB 5949

As Reported by Senate Committee On:
Ways & Means, February 19, 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: Senators Robinson and Frame; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 1/19/26, 2/19/26 [DPS, DNP].

Brief Summary of First Substitute 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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5949 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Boehnke, Braun, Kauffman, Muzzall, Wagoner and Warnick.

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.

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 (Department) and taxpayers regarding the scope of the exemption language. In 2019, the Department 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.

Summary of Bill (First Substitute): 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 would also apply 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 bill is retroactive to October 2, 2019, but does not change any final judgment a court issued before the effective date of the bill.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):

- Modifies the intent language by describing the normal application of the B&O tax

and specifying that the bill does not have any impact on the receipt of income for the granting of an annuity.

- Incorporates a cross reference to captive insurers.
- Makes other technical revisions and clarifications.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: SB 5949 ensures that a business and occupation (B&O) tax exemption on insurance premium income applies equitably and as the Legislature intended when it created the statute. It is intended to prevent double taxation. Unfortunately, it is vaguely written and uses the passive voice. Instead of simply preventing double taxation, it has been interpreted to provide a sweeping tax exemption whose limits are unclear based on a recent Washington Supreme Court decision. Because the statute lacks clear boundaries, the exemption extends to affiliates and subsidiaries of an insurance company even if their income is not derived from insurance premiums. Simply put, they're able to double dip because of the statute's passive voice. The insurance companies claim the exemption on its premium revenue and its affiliates can also take the exemption even though they have no premium in income. That is a not sound tax policy, and that's not a level playing field. From what we can tell, a fair number of pharmacy benefit managers and other affiliates of insurance companies have been paying B&O tax. The bill will not mean increased cost for them. On the contrary, not passing 59-49 will mean the Legislature's acquiescing to the court's interpretation of the statute. And in that case, taxpayers will come forward requesting tax refunds. The Legislature has this opportunity to establish a measure of tax equity with this bill. This bill offers a rare opportunity to address the complex corporate structures that are making it harder and harder for Washington to establish sound public policy. When the insured BNO tax was established decades ago, the world was a much simpler place. The law made sense. The goal was to ensure premiums revenue would be exempted from B&O tax and in return the revenue would be subject to the insurance premium tax. But in the decades since, corporate structures have gotten a lot more complicated. Nowadays insurance companies are involved with pharmacy benefit managers and an increasing array of side business ventures. Today what was originally intended to be a simple protection against double taxation has involved into a categorical B&O tax exemption for downstream affiliates.

CON: This is a bill that is trying to change long-standing tax practice in the state related to insurance carriers at a time when health premiums continue to increase and there is uncertainty and affordability concerns in market. This proposal will definitely increase

costs related to health insurance while providing no direct benefit to the consumer. You've already heard about the retroactivity clause that is extremely problematic and this bill does not address some of the underlying drivers of the rising premiums related to that are related to hospital prices, prescription drug costs, and increased utilization. It is going to create a new tax burden at a time when premium affordability is already under significant strain. Regence already pays the insurance premium tax on our fully insured business. This bill would impose B&O tax, on insurance support services that are already fully taxed through the premium tax to keep premiums affordable for Washingtonians. Essential insurance functions such as actuarial services, legal services procurement services are centralized within our non-profit parent, Cambia Health Solutions. These services exist solely to support regulated insurance operations. Under current law, reimbursements for these insurance services are not subject to the B&O tax, because that underlying insurance activity is already taxed through the premium tax. The retroactivity in particular will directly translate to higher premiums for consumers with an estimated increase of 1% to 2% premium increase in the first year alone. The bill does not expand coverage, improve benefits, or lower costs, it simply raises costs. The Supreme Court held that the DOR was not acting within the statutory framework when they tried to create this tax by guidance. Primera did not pay it, and the Supreme court ruled that we were right in not doing so. Now this bill would impose the tax retroactively to 2019. This bill raises questions about affordability and fairness in our view. It would create new cost for insurers that are projected to have roughly a 21% increase and directly conflicting with your goal of trying to make health care more affordable. The cost from these taxes will be passed on to working families to small businesses, employers, and the Medicaid program. Unfortunately, Medicaid rates would need to rise to remain actuarially sound, reducing budget savings. Additionally, the courts were clear that affiliate services were part of the insurance business, not a double dip. We believe the bill's language creates ambiguity over whether the B&O tax could be imposed on exempted dental insurance premiums and retirement savings products, such as annuities and other employee retirement plans. If it is not the intent of the sponsor or the author of the bill to impose these new taxes on annuities and retirement savings or exempted dental premiums, we would love to seek that clarification and have that conversation with the committee.

Persons Testifying: PRO: Steve Ewing, Dept. of Revenue; Sam Hatzenbeler, Economic Opportunity Intitute.

CON: Gary Strannigan, Premera Blue Cross; Jennifer Muhm, Regence Blue Shield; Dave Foster, Association of Washington Healthcare Plans; Bill Stauffacher, Coordinated Care; Neil Strege, WA Roundtable; Emily Wittman, Association of Washington Business; Kenton Brine, Northwest Insurance Council; Kris Tefft, American Council of Life Insurers.

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