



2010 Tax Preference Performance Reviews Proposed Final Reports

Joint Legislative Audit and Review Committee
January 5, 2011

Mary Welsh and Dana Lynn
JLARC Staff



Mandate for Tax Preference Reviews

- 2006 legislation mandated JLARC to conduct performance reviews of tax preferences
- 500+ preferences scheduled over 10 years
- Outlined specific questions to be answered in reviews
 - Public Policy Objectives
 - Beneficiaries
 - Revenue and Economic Impacts
 - Other States

Citizen Commission for Performance Measurement of Tax Preferences



- Seven members
 - Five voting members – appointed by each of the legislative caucuses and the Governor
 - Two non-voting members – JLARC Chair and State Auditor
- Three primary duties
 - Set the 10-year review schedule
 - Take public testimony on the reviews
 - Comment on the reviews

Steps Completed for the 2010 Tax Preference Review Process



July 2010	Preliminary reports presented to JLARC
August	Preliminary reports presented to the Citizen Commission
September	Commission conducted public hearing
October	Commission adopted comments
Jan 5, 2011	Proposed final report presented to JLARC
(TBD)	Present to Joint Senate Ways & Means and House Ways & Means committees

Reviews in 2010:



- Two main reports **Beneficiary Tax Savings**
 - 10 Full Reviews \$6.9 Billion
 - 10 Expedited Reviews \$27 Million
- Preferences for the following types of taxes:
 - Business & occupation tax
 - Retail sales and/or use taxes
 - Insurance premiums tax
 - Public utility tax
 - Property tax
- Additional report—38 Expedited “Light” preferences
 - Generally \$2 million or less
 - DOR published information

“Continue” Recommended for These Ten Preferences



JLARC Staff Recommends “Continue”

Commission Comments

Fertilizer and Sprays

Breeding Livestock, Cattle, and Milk Cows

Nonresident Personal Property

Vehicles Sold to Nonresidents

Title Insurance Premiums

Poultry Used in Production

Farm Machinery Sold to Nonresidents

Vehicles Acquired While in Armed Services

Labor for Sand/Gravel for Public Roads

Conservation and Open Space Lands

Citizen Commission Endorses Without Comment

Interstate Transportation Equipment (Sales/Use Tax Exemption)



Commission Comments

JLARC Staff Recommends “Continue”

Because the public policy purpose of increasing the competitive advantage of Washington transportation equipment industries is being met.

Citizen Commission Endorses and Adds:

Because the interstate use threshold is less for motor vehicles than for other equipment used in interstate commerce...

The Legislature should consider whether to increase the qualifying threshold for motor vehicles by reviewing whether [all interstate transportation equipment should have the same qualifying threshold].

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Food Processors

(B&O Tax Exemptions and Sales and Use Tax Deferral)



Commission Comments

JLARC Staff Recommends “Allow to Expire”

Because the public policy objective of creating and retaining quality jobs is not being fully achieved, and the B&O tax exemption was intended to be temporary.

Citizen Commission Endorses with Comments:

The Commission... acknowledges that the Department of Agriculture provided correspondence to the Commission indicating they disagreed with the JLARC recommendation. (Same comment for all 4 reviews.)

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Instate Portion of Interstate Transportation (PUT Deduction)



JLARC Staff Recommends “Legislature should impose the public utility tax”

Commission Comments

Because the U.S. Constitution no longer prohibits states from taxing the instate portion of interstate transportation.

Instate Portion of Interstate Transportation (PUT Deduction) (continued)



Citizen Commission Does Not Endorse and Adds:

Commission Comments

- *Although the preference is no longer constitutionally necessary, taxpayers have structured competitive activities relying on the preference.*
- *Commission recommends OFM, DOR, or the Revenue Forecast Council be directed to conduct an economic impact study on the competitiveness of affected taxpayers.*
- *The study should identify policy options such as defining the tax base and restructuring the public utility tax.*
- *If no legislative action has been taken by the end of 2012 Session, Commission will consider scheduling the preference for another review.*

Through Freight in Interstate Transportation (PUT Deduction)



JLARC Staff Recommends “Terminate”

Commission Comments

Because the U.S. Constitution no longer prohibits states from taxing instate portions of interstate transportation activities.

Through Freight in Interstate Transportation (PUT Deduction) (continued)



Citizen Commission Does Not Endorse and Adds:

Commission Comments

- *Although the preference is no longer constitutionally necessary, taxpayers have structured competitive activities relying on the preference.*
- *Commission recommends OFM, DOR, or the Revenue Forecast Council be directed to conduct an economic impact study on the competitiveness of affected taxpayers.*
- *The study should identify policy options such as defining the tax base and restructuring the public utility tax.*
- *If no legislative action has been taken by the end of 2012 Session, Commission will consider scheduling the preference for another review.*

Shipments to Ports (PUT Deduction)



JLARC Staff Recommends “Re-examine/Clarify Intent”

Commission Comments

Because the original public policy objective to comply with the U.S. Constitution is no longer applicable. However, changes made in 1949 and 1967 suggest Legislature had additional, unidentified objectives.

Citizen Commission Endorses with Comments:

The Commission suggests the Legislature re-examine the intent in conjunction with the economic impact study recommended for the other two public utility tax preferences.

Labor/Services to Construct and Repair Public Roads (Sales Tax Exemption)



JLARC Staff Recommends:

Commission Comments

“Continue”

Because preference is meeting public policy objective of reducing costs for local road construction and repair.

“Re-examine/Clarify Intent”

Does the Legislature want to continue subjecting state road construction/repair to sales tax?

Citizen Commission Endorses and Adds:

- *Circumstances have changed regarding the exclusion of state-owned roads from this tax preference and the exclusion may no longer serve its original purpose. The Legislature should consider revising the statute to extend the tax preference to apply to labor and services for construction and repair of state-owned roads.*

Bailed Property Consumed in R&D (Use Tax Exemption)



JLARC Staff Recommends “Re-examine/Clarify Intent”

Commission Comments

Because the public policy objectives are unclear and ambiguous, with no clarity or restrictions as to intended beneficiaries or qualifying tangible personal property.

Citizen Commission Endorses with Comments:

The Commission... recommends the Legislature should consider whether the Department of Revenue’s interpretation of the existing statute results in fairness or competitive impacts.

Agency Comments



- Department of Revenue and Office of Financial Management found JLARC’s reports accurate and had no comments.

Summary of Tax Preference Work to Date



Four years of JLARC reviews have now been completed (95 reviews in total)

Recommendation	Annual Beneficiary Tax Savings	Count
Continue or Modify Expiration Date	\$15 Billion	62
Re-examine or Clarify	\$270 Million	19
Terminate or Allow to Expire	\$60 Million	14

Find a summary of recommendations to date at:
www.citizentaxpref.wa.gov/whatsnew.htm



Task Force on Tax Preference Reform



Task Force on Tax Preference Reform



Charged with reviewing and assessing budget and policy practices and procedures associated with tax preferences.

Marty Brown, *Director, Office of Financial Management*

Amber Carter, *Director of Government Affairs, Association of Washington Business*

Paul Guppy, *Washington Policy Center, Member, Citizen Commission on Tax Preferences*

Ross Hunter, *State Representative*

Troy Kelley, *State Representative; Chair, Joint Legislative Audit and Review Committee*

William Longbrake, *Gov's Council of Econ. Advisors; Chair, Cit. Comm. on Tax Preferences*

James L. McIntire, *Task Force Chair, State Treasurer*

Andy Nicholas, *Policy Analyst, Washington Budget & Policy Center*

Ed Orcutt, *State Representative*

Phil Rockefeller, *State Senator*

Joseph Zarelli, *Task Force Vice Chair, State Senator*

Task Force Issued Report Nov.15



- Looked at current procedures and addressed how tax preferences are considered
 - Budgeting processes
 - Legislative processes
 - Processes used to measure the costs and benefits
- Unanimously endorsed 10 recommendations

Task Force Recommendations in Four Areas



- Provide the Citizen Commission flexibility in scheduling reviews and determining evaluation criteria of tax preferences (requires legislative action)
 - Others enhancing Citizen Commission/JLARC tax preference review process
- Improve the revenue fiscal note process/ procedures
- Use legislative declarations of intended outcomes for tax preferences
- Improve taxpayer accountability reporting

www.taxpreftaskforce.leg.wa.gov

Contact Information



Mary Welsh
360-786-5193

Mary.Welsh@leg.wa.gov

Dana Lynn
360-786-5177

Dana.Lynn@leg.wa.gov

www.jlarc.leg.wa.gov
www.citizentaxpref.wa.gov