19-08 FINAL REPORT:

2019 TAX PREFERENCE PERFORMANCE REVIEWS

Commuter Air Carrier Airplanes (Sales and Use Tax)

LEGISLATIVE AUDITOR'S CONCLUSION:

Since 2009, the number of commuter air carriers has increased by one. There has been no change in the total number of small or rural airports served, but service has increased in some locations and ended in others.

December 2019

Sales and use tax exemption for commuter air carriers on purchases of airplanes, airplane parts, maintenance, and repairs

The preference provides a sales and use tax exemption for commuter air carriers when they purchase airplanes, or parts, maintenance, and repair services for airplanes, that are used primarily for in-state flights.

Commuter air carriers:

- Operate "small aircraft" with 60 or fewer seats.
- Carry passengers on at least 5 round-trip flights per week.
- Fly according to published flight schedules.

The preference was enacted in 2009 and has no expiration date.

Estimated Biennial Beneficiary Savings $447,000
Tax Type Sales and Use Tax RCWs 82.08.0262(1)(a)(iii), 82.12.0254(1)(a)(ii) Applicable Statutes

One of three inferred public policy objectives met

The Legislature did not state a public policy objective when it passed this preference in 2009. JLARC staff infer three public policy objectives based on legislative testimony by the primary sponsors and industry representatives.

Objectives (Inferred)	Results
1. Encourage expanded in-state commuter air carrier service.	**Unclear**. The number of commuter air carriers has increased by one. Flight service has increased to the San Juan Islands, but service has ended in other areas of the state.
2. Maintain air service to Washington's small or rural airports.	**Unclear**. The total number of airports and airfields served has remained the same between 2009 and 2018, but service locations have shifted. More flights are concentrated in the San Juan Islands.
3. "Level the playing field" with potential out-of-state competition from an Oregon-based commuter air carrier.	**Met**. Preference removes a potential competitive disadvantage. No out-of-state carriers have directly competed with Washington carriers since 2009.

Recommendations

Legislative Auditor's Recommendation: Clarify expectations for levels of service and locations served

The Legislature should clarify its expectations for this preference by adding a performance statement that clearly states the public policy objectives and metrics to determine whether the objectives have been met. The Legislature should clarify what it hopes to achieve in terms of frequency of flights and locations served.

More information is available on the Recommendations Tab.

Commissioners' Recommendation

The Commission endorses Legislative Auditor's recommendation with comment. It would be helpful for future reviews for the Legislature to clarify its expectations for this tax preference by adding a performance statement. However, public testimony suggests that any performance metrics must be chosen carefully so as not to be overly burdensome to firms that provide an important service in a low-margin industry. Also, in many cases, economics unrelated to the tax preference will dictate a specific route's viability and optimal flight frequency. Therefore, metrics related to specific routes and frequency may not accurately reflect the preference's impact on industry performance. In particular, although the preference likely improves industry viability by lowering costs, linking the preference's impact to route changes may be difficult and/or overly burdensome to the industry.

Committee Action to Distribute Report

On December 4, 2019 this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Action to distribute this report does not imply the Committee agrees or disagrees with the Legislative Auditor recommendations.

REVIEW DETAILS

1. What is the preference?

Sales and use tax exemption for commuter air carriers on purchases of airplanes, airplane parts, maintenance, and repairs

Preference has three inferred objectives

The Legislature did not state a public policy objective when it passed this preference. The preference was passed before the Legislature required a performance statement for new tax preferences.

JLARC staff infer three public policy objectives based on legislative testimony by the primary sponsors and industry representatives.

1. Encourage expanded in-state commuter air carrier service by providing a sales and use tax exemption on airplanes used primarily for in-state transportation.
2. Maintain air service at Washington's small or rural airfields.
3. "Level the playing field" with potential out-of-state competition from an Oregon-based commuter air carrier.

Sales and use tax exemption for airplanes used primarily for in-state travel

Commuter air carriers:

- Operate small airplanes with 60 or fewer seats.
- Carry passengers on at least five round-trip flights per week.
- Fly according to published flight schedules.

This sales and use tax exemption applies to carriers that purchase airplanes, or parts, maintenance, and repairs for airplanes, that are used primarily for in-state travel (i.e., more than 50% of flights).

Under separate statutes, carriers are already exempt from sales and use tax for airplanes that are used primarily for out-of-state travel, such as flights between Washington and other states.

Preference has no expiration date

The preference was enacted in 2009 and has no expiration date.

2. Gains and losses for in-state flight service

Since preference began, there is one new commuter air carrier in Washington. Service has increased to the San Juan Islands and ceased in other locations.

Since 2009, the total number of commuter air carriers in Washington has increased from two to three. The number of flights and locations served in the San Juan Islands has increased, but service has been lost in other areas of the state.

Preference was described as removing a disincentive to expand in-state flight service

Representatives for Kenmore Air, a Washington commuter air carrier, testified at 2009 legislative hearings that the preference would potentially allow it to expand its in-state flight service.

At the time, Kenmore Air used its seaplane fleet to fly between in-state locations (e.g., between Kenmore and the San Juan Islands) and out-of-state (e.g., between Lake Washington and Victoria, B.C.). State law already provided a sales and use tax exemption for airplanes used more than 50% of the time for out-of-state flights.

Kenmore Air representatives explained that its in-state flights were close to the 50% mark. If it increased the number of in-state flights, Kenmore risked losing the sales and use tax exemption it currently received on its entire seaplane fleet. Increasing in-state flights meant that its ratio of out-of-state to in-state travel would fall below 50%.

With the preference, Kenmore Air's entire fleet would be exempt under the existing or the new sales and use tax exemption. The air carrier representatives indicated that the preference would encourage it to expand its in-state flight service.

Commuter air carriers report that the bulk of their revenue is from passenger service, not freight transportation.

Number of commuter air carriers has increased by one

When the preference was enacted in 2009, two commuter air carriers operated in Washington. As of 2018, there are now three commuter air carriers in the state.

Exhibit 2.1: Three commuter air carriers operating in 2018

Corporate Name	Doing Business As	Based Out Of
Kenmore Air Harbor, Inc.	Kenmore Air Express, Kenmore Air	Kenmore
Rugby Aviation, Inc.	San Juan Airlines	Bellingham
West Isle Air, Inc.	Friday Harbor Seaplanes	Renton

Source: JLARC staff analysis of U.S. Department of Transportation data and interviews with Washington commuter air carriers.

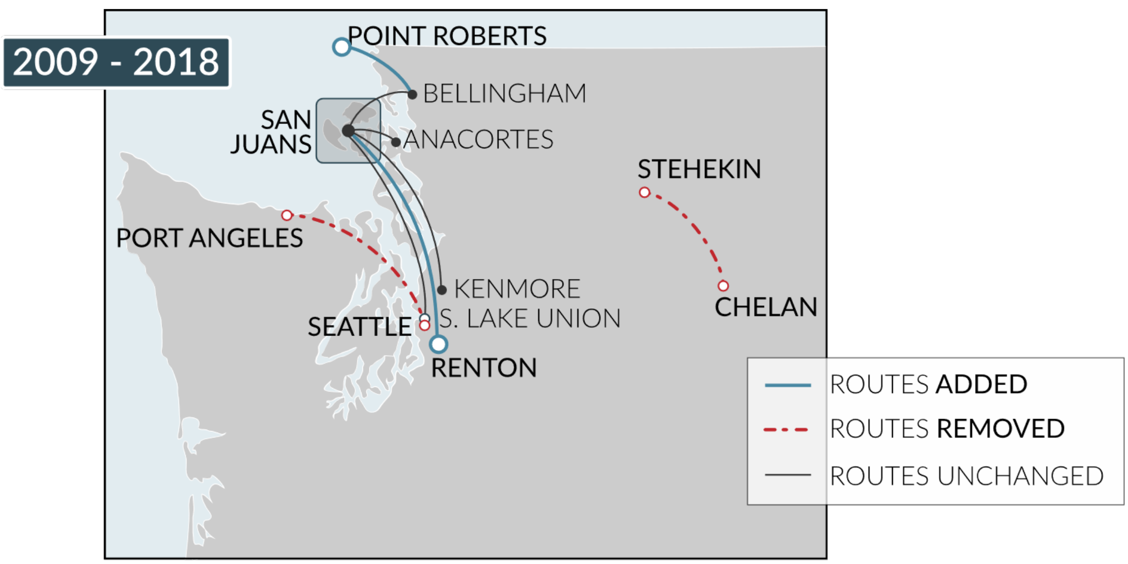
Flights have increased to San Juan Island locations and have begun to serve Point Roberts, but flights have ended in other locations

JLARC staff identified the following changes to in-state flight service since the preference began:

- There are more commuter air carriers flying to more locations in the San Juan Islands in 2018 than in 2009.
- A route between Bellingham and Point Roberts was added.
- Service was lost to Port Angeles.
- Service was lost between locations on Lake Chelan.

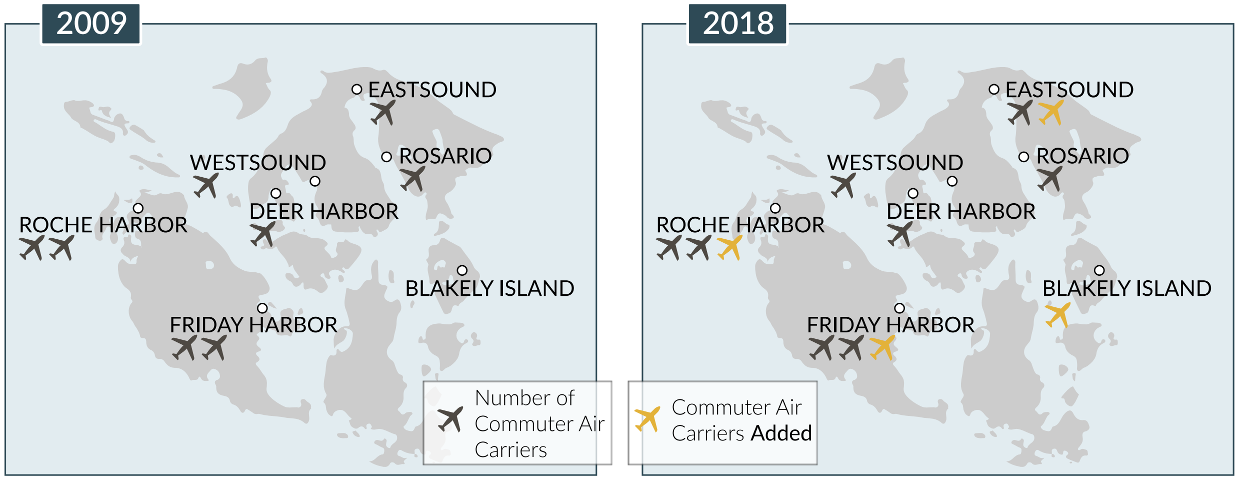
JLARC staff were unable to directly compare the number of scheduled flights offered by commuter air carriers in 2009 to the number of flights offered in 2018 because sufficient 2009 data was not available.

Exhibit 2.2: Olympic Peninsula and Eastern Washington lost flight service, Point Roberts and San Juan Islands gained service



Source: JLARC staff analysis of 2009 and 2018 flight schedules, interviews with various airport and commuter air carrier personnel.

Exhibit 2.3: More commuter air carriers with additional flights are serving the San Juan Islands



Source: JLARC staff analysis of 2009 and 2018 flight schedules and interviews with various airport and commuter air carrier personnel.

3. Same number of airports served; shift in locations

No change in the total number of small, rural airports served, but flights are now concentrated in the San Juan Islands

An industry representative testified in 2009 that the preference would help maintain air service to small or rural airports in Washington.

At the time, there were concerns about maintaining this service. The Washington State Department of Transportation Aviation Division projected that smaller commercial service airports could be at risk of losing service in the future if they relied on a single air carrier for scheduled flights.

As of 2018, two small, rural airports (Point Roberts and Blakely Island) and one urban airport (Renton) have gained commuter air carrier service. During the same time frame, commuter air carrier service was lost in Port Angeles and between two points on Lake Chelan. Overall, there has been no net change in the number of locations served.

Exhibit 3.1: No net change in number of locations served by commuter air carriers between 2009 and 2018

Small or Rural Airports with Scheduled Commuter Air Carrier Service	2009	2018
Port Angeles (land)	Kenmore Air Express	No service
Chelan (sea)	Chelan Seaplanes	No service
Stehekin (sea)	Chelan Seaplanes	No service
Blakely Island (land)	No service	San Juan Airlines
Port Roberts (land)	No service	San Juan Airlines
Renton (sea)	No service	Friday Harbor Air
Kenmore (sea)	Kenmore Air	Kenmore Air
Seattle Lake Union (sea)	Kenmore Air	Kenmore Air
Bellingham (land)	San Juan Airlines	San Juan Airlines
Anacortes (land)	San Juan Airlines	San Juan Airlines
Friday Harbor (San Juan Island) (land and sea)	Kenmore Air Express (land), San Juan Airlines (land)	Kenmore Air Express (land), San Juan Airlines (land), Friday Harbor Air (sea)
Roche Harbor (San Juan Island) (land and sea)	Kenmore Air (sea), San Juan Airlines (land)	Kenmore Air (sea), San Juan Airlines (land), Friday Harbor Air (sea)
Rosario (Orcas Island) (sea)	Kenmore Air	Kenmore Air
West Sound (Orcas Island) (sea)	Kenmore Air	Kenmore Air
Deer Harbor (Orcas Island) (sea)	Kenmore Air	Kenmore Air
Eastsound (Orcas Island) (land)	Kenmore Air Express	Kenmore Air Express, San Juan Airlines
Lopez Island (land and sea)	Kenmore Air (sea)	Kenmore Air (sea), San Juan Airlines (land)

Source: JLARC staff analysis of 2009 WSDOT Aviation Division system plan, commuter air carrier web-based schedules as of November 2018, and interviews with Washington's three commuter air carriers.

Unclear if commuter air carrier service to small or rural airports has been maintained as envisioned by Legislature

As of 2018, most commuter air carrier service in Washington is to or from destinations in the San Juan Islands. Three commuter air carriers now serve the San Juan Islands. As of January 2019, there is no commuter air service to the Olympic Peninsula, Southwest Washington, or Eastern Washington.

While there has been no net change in the number of small, rural airports served, it is unclear if the shift in locations is what the Legislature envisioned for maintaining service.

Potential for new or resumed service in future years

As of January 2019, Oak Harbor and Port Angeles airport personnel report that the airports are working to re-establish commuter air carrier service in the near future.

- Port Angles was last served by a commuter air carrier in 2014.
- Oak Harbor was last served by a commuter air carrier in 2008.

West Isle Air has indicated that it hopes to resume scheduled flights between points on Lake Chelan in 2020. The service has not operated since 2016.

4. Preference removes potential competitive disadvantage

No out-of-state carriers have directly competed with Washington carriers since 2009

In 2009, bill sponsors from the House and Senate noted the preference was needed to "level the playing field" with an Oregon-based commuter air carrier. Out-of-state carriers typically do not pay Washington sales or use tax on their airplanes, or airplane parts, maintenance, or repairs.

Potential out-of-state competition never entered market

SeaPort Airlines, an Oregon-based carrier, started providing direct flights between Portland International Airport and Boeing Field in June 2008. In 2011, it ceased those flights.

SeaPort never directly competed with any Washington commuter air carrier routes since the preference was enacted. The Oregon-based air carrier filed for bankruptcy and ultimately liquidated in September 2016. No other out-of-state commuter air carriers have entered the Washington market since then.

5. Three commuter air carriers benefit

Washington's three commuter air carriers benefit from the preference

Tax preferences have **direct beneficiaries** (entities whose state tax liabilities are directly affected) and may have **indirect beneficiaries** (entities that may receive benefits from the preference, but are not the primary recipient of the benefit).

Three commuter air carriers are direct beneficiaries

According to the U.S. Department of Transportation and industry sources, three commuter air carriers currently operate in Washington and benefit from the preference:

- **Kenmore Air Harbor, Inc.**, doing business as Kenmore Air (seaplanes) and Kenmore Air Express (land-based).
- **Rugby Aviation, Inc.**, doing business as San Juan Airlines.
- **West Isle Air, Inc.**, doing business as Friday Harbor Seaplanes. Chelan Seaplanes is also owned by West Isle Air, but has not operated since 2016.

Indirect beneficiaries are located in areas served by flights

Residents and local businesses of communities serviced by commuter air carriers, as well as tourists, may indirectly benefit from the preference.

6. Estimated biennial savings: $447,000

In 2021-23 biennium, the estimated direct beneficiary savings is $447,000

JLARC staff estimate the direct beneficiary savings for fiscal year 2018 is $202,000. The estimated beneficiary savings for the 2021-23 Biennium is $447,000.

JLARC staff based these estimates on average expenditure data for a two-year period provided by industry representatives. The estimates are for expenditures on airplane maintenance, engine purchases, and other capital costs. They do not include any airplane purchases because the representatives did not anticipate any during this time period.

Exhibit 6.1: Estimated direct beneficiary savings from sales and use tax exemption

Biennium	Fiscal Year	Estimated Parts, Maintenance, and Repair Costs	State Sales Tax	Local Sales Tax	Estimated Total Beneficiary Savings
2017-19 *(7/1/17-6/30/19)*	2018	$2,112,000	$137,000	$65,000	$202,000
	2019	$2,165,000	$141,000	$66,000	$207,000
2019-21 *(7/1/19-6/30/21)*	2020	$2,215,000	$144,000	$68,000	$212,000
	2021	$2,258,000	$147,000	$69,000	$216,000
2021-23 *(7/1/21-6/30/23)*	2022	$2,310,000	$150,000	$71,000	$221,000
	2023	$2,364,000	$154,000	$72,000	$226,000
	2021-23 Biennium	$4,674,000	$304,000	$143,000	$447,000

Source: JLARC staff analysis of average expenditure data for two-year period provided by industry representatives for estimated maintenance, engine purchases, and other capital expenditures for airplanes. Estimate does not include any airplane purchases during the three biennia covered, per discussions with industry representatives. Growth for 2019 and beyond is calculated using I.H.S. Markit Growth Factor, Tables 1118, Prices and Wages, Consumer Prices All Urban, November 2018.

7. Applicable statutes

RCWs 82.08.0262(1)(a)(iii), 82.12.0254(1)(a)(ii)

RCW 82.08.0262

Exemptions - Sales of airplanes, locomotives, railroad cars, or watercraft for use in interstate or foreign commerce or outside the territorial waters of the state or airplanes sold to United States government - Components thereof and of motor vehicles or trailers used for constructing, repairing, cleaning, etc. - Labor and service for constructing, repairing, cleaning, etc.

(1) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of airplanes (i) to the United States government; (ii) for use in conducting interstate or foreign commerce by transporting property or persons for hire or by performing services under a contract with the United States government; or (iii) for use in providing intrastate air transportation by a commuter air carrier;

(b) Sales of locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting property or persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state;

(c) Sales of tangible personal property that becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the interstate commerce commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; and

(d) Sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving.

(2) The term "commuter air carrier" means an air carrier holding authority under Title 14, Part 298 of the code of federal regulations that carriers passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

RCW 82.12.0254

Exemptions - Use of airplanes, locomotives, railroad cars, or watercraft used in interstate or foreign commerce or outside state's territorial waters - Components - Use of vehicles in the transportation of persons or property across state boundaries - Conditions - Use of vehicle under trip permit to point outside state.

(1) The provisions of this chapter do not apply in respect to the use of:

(a) Any airplane used primarily in (i) conducting interstate or foreign commerce by transporting property or persons for hire or by performing services under contract with the United States government or (ii) providing intrastate air transportation by a commuter air carrier as defined in RCW 82.08.0262.

(b) Any locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting property or persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state;

(c) Tangible personal property that becomes a component part of any such airplane, locomotive, railroad car, or watercraft in the course of repairing, cleaning, altering, or improving the same; and

(d) Labor and services rendered in respect to such repairing, cleaning, altering, or improving.

(2) The provisions of this chapter do not apply in respect to the use by a nonresident of this state of any vehicle used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such vehicle is registered in a foreign state and in respect to the use by a nonresident of this state of any vehicles so registered and used within this state for a period not exceeding fifteen consecutive days under such rules as the department must adopt. However, under circumstances determined to be justifiable by the department a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein includes a

user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents applies only to those vehicles which are most frequently dispatched, garaged, services, maintained, and operated from the user's place of business in another state.

(3) The provisions of this chapter do not apply in respect to the use by the holder of a carrier permit issued by the interstate commerce commission or its successor agency of any vehicles whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state; and in respect to the use of any vehicles while being operated under the authority of a trip permit issued by the director of licensing pursuant to RCW 46.16A.320 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any vehicle used by the holder of a carrier permit issued by the interstate commerce commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state whether such vehicle is owned by or leased with or without driver to the permit holder, in the course of repairing, cleaning, altering, or improving the same; also the use of labor and services rendered in respect to such repairing, cleaning, altering, or improving.

RECOMMENDATIONS & RESPONSES

Legislative Auditor's Recommendation

Legislative Auditor's Recommendation: Clarify expectations for levels of service and locations served

The Legislature should clarify its expectations for this preference by adding a performance statement that clearly states the public policy objectives and metrics to determine whether the objectives have been met. The Legislature should clarify what it hopes to achieve in terms of frequency of flights and locations served.

Legislation Required: Yes.

Fiscal Impact: Depends on legislative action.

Letter from Commission Chair

State of Washington

Citizen Commission for Performance Measurement of Tax Preferences

106 11th Ave SW, PO Box 40910, Olympia, WA 98504-0910 | Phone: 360-786-5171 | Fax: 360-786-5180
E-mail: JLARC@leg.wa.gov | Website: www.citizentaxpref.wa.gov | Twitter: @WALegAuditor

October 30, 2019

The Honorable Representative Timm Ormsby
The Honorable Representative Drew Stokesbary
The Honorable Representative Cindy Ryu
The Honorable Representative Bill Jenkin
The Honorable Representative Zack Hudgins
The Honorable Representative Norma Smith
The Honorable Representative Gael Tarleton

The Honorable Representative Ed Orcutt
The Honorable Senator Patty Kuderer
The Honorable Senator Hans Zeiger
The Honorable Senator Mark Mullet
The Honorable Senator Lynda Wilson
The Honorable Senator Christine Rolfes
The Honorable Senator John Braun

Re: 2019 Tax Preference Reviews

Dear Senators and Representatives,

I am pleased to forward to you the comments that the Citizen Commission for Performance Measurement of Tax Preferences unanimously adopted for this year's review of tax preferences. The Citizen Commission consists of five voting members, with a member appointed by each of the four caucuses and the Governor's office. Notably, reviews this year included the $569M aerospace preferences that were expanded and extended in 2013, as well as a $262M preference to encourage development of multifamily and affordable housing.

We adopted positions similar to the Legislative Auditor for eight of the nine recommendations issued this year. I would like to call your attention to a recommendation from the Citizen Commission to the Legislature to form a taskforce to improve the information available to the Legislature on the use and consistency of the multifamily tax preference.

The full text of our Commissioner recommendations, summaries of the JLARC staff's analysis and recommendations, and brief video summaries of each preference are available on the 2019 Tax Preference Reviews overview page linked here.

Tax preference reviews provide valuable information as the Legislature considers whether specific preferences are meeting the Legislature's policy objectives. With this year's report, there are now 13 years of tax preference evaluations available to the Legislature, comprising over 296 individual reviews.

I urge you to consider this year's and previous years' recommendations and comments on tax preference statutes in the upcoming legislative session. An interactive summary of legislative action on prior reviews is available here.

As Chair of the Citizen Commission, I would be pleased to discuss the Commission's position and comments with you and any interested legislators. Please feel free to contact me (grant.forsyth@leg.wa.gov) or the Legislative Auditor, Keenan Konopaski (keenan.konopaski@leg.wa.gov or 360-786-5187).

Sincerely,

Grant D. Forsyth

Grant D. Forsyth, Chair
Citizen Commission for Performance Measurement of Tax Preferences

Commissioners' Recommendation

The Commission endorses Legislative Auditor's recommendation with comment. It would be helpful for future reviews for the Legislature to clarify its expectations for this tax preference by adding a performance statement. However, public testimony suggests that any performance metrics must be chosen carefully so as not to be overly burdensome to firms that provide an important service in a low-margin industry. Also, in many cases, economics unrelated to the tax preference will dictate a specific route's viability and optimal flight frequency. Therefore, metrics related to specific routes and frequency may not accurately reflect the preference's impact on industry performance. In particular, although the preference likely improves industry viability by lowering costs, linking the preference's impact to route changes may be difficult and/or overly burdensome to the industry.

Agency Response

STATE OF WASHINGTON

October 1, 2019

TO: Keenan Konopaski, Legislative Auditor
Joint Legislative Audit and Review Committee

FROM: David Schumacher, Director
Office of Financial Management

Vikki Smith, Director
Department of Revenue

SUBJECT: JLARC PRELIMINARY REPORT ON 2019 TAX PREFERENCE PERFORMANCE REVIEWS

The Office of Financial Management and Department of Revenue have reviewed the Joint Legislative Audit and Review Committee's (JLARC) preliminary report on the 2019 tax preference performance reviews.

We appreciate JLARC's thorough analysis and the detailed assessment provided by the Citizen Commission for Performance Measurement of Tax Preferences. A system that provides for a continuous review of state tax preferences is critical to ensure that the state of Washington maintains a fair and equitable tax system.

The Department of Revenue has provided a formal response on the property tax exemption for multifamily housing in urban areas. While we have no specific comments on the other eight preferences in the 2019 preliminary report, we continue to support JLARC's recommendations for the inclusion of performance statements and specific public policy objectives for all tax preferences where they do not exist in statute today.

Thank you for the opportunity to provide comments on this material and the recommendations made by JLARC.

MORE ABOUT THIS REVIEW

Study questions

WASHINGTON JLARC

Proposed Study Questions: Commuter Air Carrier Airplanes

State of Washington Joint Legislative Audit and Review Committee • September 2018

Citizen Commission scheduled a JLARC study of a sales and use tax exemption for commuter air carriers that use airplanes to provide in-state travel

Commuter air carriers:

- Operate "small aircraft" with 60 or fewer seats.
- Carry passengers on at least 5 round-trip flights per week.
- Fly according to published flight schedules specifying the times and routes.

The 2006 Legislature directed the staff of the Joint Legislative Audit and Review Committee (JLARC) to conduct performance audits of tax preferences. This preference is included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.

In 2009, the Legislature established a sales and use tax exemption for commuter air carriers that purchase and repair aircraft used primarily for in-state air transportation. The preference has no expiration date.

JLARC staff are also separately reviewing a property tax exemption in 2019 for commuter air carriers paying aircraft excise tax on their airplanes.

2019 study will address whether this preference led to expanded in-state airline service or any changes in airline service at smaller airports

The Legislature did not state an objective for this preference when it was enacted. Based on objectives inferred from statements by the prime sponsor and stakeholders, JLARC staff will answer three questions.

Inferred objectives	Study questions
Provide tax relief to encourage expanded in-state commuter air service.	1) Have commuter air carriers expanded their schedules to add more in-state flights or locations since the preference was enacted?
Help maintain air service that connects small, rural airports throughout Washington.	2) Has there been a change in the number of Washington's small airfields served by in-state commuter air carriers since the preference was enacted?
"Level the playing field" for Washington-based carriers competing with an Oregon-based commuter air carrier.	3) How does the tax burden for commuter air carriers compare between Washington and Oregon?

Joint Legislative Audit & Review Committee, 106 11th Ave SW, Olympia, WA 98501
(360) 786-5171 • (360)786-5180 (fax) • JLARC@leg.wa.gov • www.jlarc.leg.wa.gov
Keenan Konopaski, Washington State Legislative Auditor

Proposed Study Questions: Commuter Air Carrier Airplanes

Study Timeframe

Preliminary Report:	July 2019	Proposed Final Report: December 2019

Study Team

Team Lead:	Dana Lynn	360.786.5177	dana.lynn@leg.wa.gov
Research Analyst:	Eric Whitaker	360.786.5618	eric.whitaker@leg.wa.gov
Project Coordinator:	Eric Thomas	360.786.5182	eric.thomas@leg.wa.gov

JLARC Study Process

More about 2019 reviews

Audit authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

Timeframe for the study

A preliminary audit report will be presented at the July 2019 JLARC meeting and at the August 2019 meeting of the Commission. A final report will be presented to JLARC in December 2019.

Committee Action to Distribute Report

On December 4, 2019 this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Action to distribute this report does not imply the Committee agrees or disagrees with the Legislative Auditor recommendations.

More about 2019 reviews

Study process

What is a tax preference?

Tax preferences are defined in statute (RCW 43.136.021) as exemptions, exclusions, or deductions from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. Washington has approximately 600 tax preferences.

Why a review of tax preferences?

Legislature creates a process to review tax preferences

In 2006, the Legislature stated that periodic reviews of tax preferences are needed to determine if their continued existence or modification serves the public interest. The Legislature enacted Engrossed House Bill 1069 to provide for an orderly process for the review of tax preferences (RCW 43.136).

Statute assigns specific roles to two different entities:

- The Citizen Commission for Performance Measurement of Tax Preferences ("The Commission") creates a schedule for reviews, holds public hearings, and comments on the reviews.
- Staff to the Joint Legislative Audit and Review Committee (JLARC) conduct the reviews.

Citizen Commission sets the schedule

The Legislature directed the Commission to develop a schedule to accomplish an orderly review of most tax preferences over ten years. The Commission is directed to omit certain tax preferences from the schedule, such as those required by constitutional law. The Commission may also exclude preferences from review that the Commission determines are a critical part of the tax structure.

The Commission conducts its reviews based on analysis prepared by JLARC staff. In addition, the Commission may elect to rely on information supplied by the Department of Revenue.

In 2019, JLARC staff reviewed 17 preferences compiled into nine reports (similar preferences may be combined into one report). The Commission's website includes analysis of preferences completed in previous years: See http://www.citizentaxpref.wa.gov/.

JLARC staff's approach to the tax preference reviews

Statute guides the main topics typically covered in the reviews.

Public policy objectives:

1. What are the public policy objectives that provide a justification for the tax preference? Is there any documentation on the purpose or intent of the tax preference? (RCW 43.136.055(b))
2. What evidence exists to show that the tax preference has contributed to the achievement of any of these public policy objectives? (RCW 43.136.055(c))
3. To what extent will continuation of the tax preference contribute to these public policy objectives? (RCW 43.136.055(d))
4. If the public policy objectives are not being fulfilled, what is the feasibility of modifying the tax preference for adjustment of the tax benefits? (RCW 43.136.055(g))

Beneficiaries:

5. Who are the entities whose state tax liabilities are directly affected by the tax preference? (RCW 43.136.055(a))
6. To what extent is the tax preference providing unintended benefits to entities other than those the Legislature intended? (RCW 43.136.055(e))

Revenue and economic impacts:

7. What are the past and future tax revenue and economic impacts of the tax preference to the taxpayer and to the government if it is continued? (This includes an analysis of the general effects of the tax preference on the overall state economy, including the effects on consumption and expenditures of persons and businesses within the state.) (RCW 43.136.055(h))
8. If the tax preference were to be terminated, what would be the negative effects on the taxpayers who currently benefit from the tax preference and the extent to which the resulting higher taxes would have an effect on employment and the economy? (RCW 43.136.055(f))
9. If the tax preference were to be terminated, what would be the effect on the distribution of liability for payment of state taxes? (RCW 43.136.055(i))
10. For those preferences enacted for economic development purposes, what are the economic impacts of the tax preference compared to the economic impacts of government activities funded by the tax? (RCW 43.136.055(j))

Other states:

11. Do other states have a similar tax preference and what potential public policy benefits might be gained by incorporating a corresponding provision in Washington? (RCW 43.136.055(k)

JLARC staff's analysis process

JLARC staff carefully analyze a variety of evidence in conducting these reviews:

- Legal and public policy history of the tax preferences.
- Beneficiaries of the tax preferences.
- Government and other relevant data pertaining to the utilization of these tax preferences.
- Economic and revenue impact of the tax preferences.
- Other states' laws to identify similar tax preferences.

Key: understanding the purpose of the preference

The Legislature now requires that any legislation creating a new preference, or expanding or extending an existing preference, must include a tax preference performance statement. The performance statement must contain a statement of legislative purpose as well as metrics to evaluate the effectiveness of the preference (RCW 82.32.808).

Some of the preferences included in this report were passed before the 2013 legislation that requires performance statements. When a preference's purpose or objective is identified in statute, staff are able to affirmatively state the public policy objective. Sometimes the objective may be found in intent statements or in other parts of statute if there is no tax preference performance statement.

When the Legislature did not state the public policy objective of a preference, JLARC staff may be able to infer what the implied public policy objective might be. To arrive at this inferred policy objective, staff review the following:

- Legislative history, including
    - Final bill reports for any statements on the intent or public policy objectives.
    - Bills prior to the final version and legislative action on bills related to the same topic.
    - Bill reports and testimony from various versions of the bill.
    - Records of floor debate.
- Relevant court cases that provide information on the objective.
- Department of Revenue information on the history of tax preferences, including rules, determinations, appeals, audits, and taxpayer communication.
- Press reports during the time of the passage of the bill which may indicate the intention of the preference.
- Other historic documents, such as stakeholder statements, that may address the issue addressed by the tax preference.

JLARC staff also interview the agencies that administer the tax preferences or are knowledgeable of the industries affected by the tax. Agencies may provide data on the value and usage of the tax preference and the beneficiaries. If the beneficiaries of the tax are required to report to other state or federal agencies, JLARC staff will also obtain data from those agencies.

If there is sufficient information in this evidence to infer a policy objective, JLARC staff state that in the reviews. In these instances, the purpose may be a more generalized statement than when there is explicit statutory language.

More about 2019 reviews

Contact information

JLARC staff members

Dana Lynn, **Research Analyst** - 360-786-5177

Rachel Murata, **Research Analyst** - 360-786-5293

Pete van Moorsel, **Research Analyst** - 360-786-5185

Eric Whitaker, **Research Analyst** - 360-786-5618

Zack Freeman, **Research Analyst** - 360-786-5179

Josh Karas, **Research Analyst** - 360-786-5298

Aaron Cavin, **Research Analyst** - 360-786-5194

Eric Thomas, Audit Coordinator

Keenan Konopaski, Legislative Auditor

JLARC members on publication date

Senators

Bob Hasegawa
Mark Mullet, *Chair*
Rebecca Saldaña
Shelly Short
Dean Takko
Lynda Wilson, *Secretary*
Keith Wagoner

Representatives

Jake Fey
Noel Frame
Larry Hoff
Christine Kilduff
Vicki Kraft
Ed Orcutt, *Vice Chair*
Gerry Pollet, *Assistant Secretary*
Drew Stokesbary

Citizen Commission for Performance Measurement of Tax Preferences

Voting members

Dr. Grant D. Forsyth
Ronald L. Bueing
Diane Lourdes Dick
Dr. Justin Marlowe
Andi Nofziger-Meadows

Non-voting members

Mark Mullet, JLARC Chair
Pat McCarthy, State Auditor

Washington Joint Legislative Audit and Review Committee

106 11th Avenue SW, Suite 2500
PO Box 40910
Olympia, WA 98504-0910

Phone: 360-786-5171
Fax: 360-786-5180
Email: JLARC@leg.wa.gov