



# Recommendations to the Legislature

## Status highlights

November 2023

### Legislative Auditor offers recommendations for members' consideration

The Legislative Auditor must issue a recommendation to the Legislature for each tax preference and sunset review (Chapter 43.136 RCW, Chapter 43.131 RCW).

Performance audits also may include recommendations to the Legislature.

See recommendation details on our web site

[leg.wa.gov/jlarc/AuditAndStudyReports/Pages/Recommendations.aspx](http://leg.wa.gov/jlarc/AuditAndStudyReports/Pages/Recommendations.aspx)

The Legislature has implemented many of the recommendations issued from 2019 through 2022 (page 3). Others remain open for consideration.

### Open recommendations from tax preference reviews

JLARC staff review tax preferences according to the schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.

#### Recommendation for legislative action: Continue and modify

These preferences meet the legislative intent. Changes could make them more effective and extend their expiration dates.

##### Commuter Trip Reduction (expires 7/1/2024)

- The credit likely has limited influence on the amount of financial incentives employers provide.
- Changes might include options to further reduce single-occupant vehicle travel or recategorizing the preference as one intended to provide tax relief.

##### Manufacturers' Deferral (expires 1/1/2026)

- Four businesses used the tax deferral but likely would have built the facilities without the deferral. They met job goals through temporary construction work rather than permanent manufacturing jobs.
- Changes might include extending the expiration date, focusing on full-time jobs, and directly appropriating money for training and apprenticeships.

##### Commuter Air Carrier Airplanes - Property tax (no expiration)

- The preference streamlines tax reporting but does not meet the objective of providing an alternative to property tax that results in a similar amount of tax paid.
- Changes could include equalizing commuter air carrier excise taxes with property taxes, clarifying why it is limited to certain air carriers, and adding a performance statement with stated objectives and metrics.

#### Recommendation for legislative action: Terminate

##### Aircraft Part Prototypes

This preference applies to the sale of materials used to make prototypes of aircraft parts and equipment. JLARC reviews in 2014 and 2019 found that no businesses have claimed the credit. The Citizen's Commission endorses this recommendation.

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## Recommendation for legislative action: Clarify the objectives

Clarifications could include clarifying the intended beneficiaries and adding performance statements and metrics. These preferences do not have expiration dates.

### Microbrewers

**Conclusion:** This \$7.2 million biennial preference created an estimated 2 to 6 jobs. Distributors receive 84% of direct preference savings, which is 0.17% of their gross income.

### Nonprofit Outpatient Dialysis Facilities

**Conclusion:** Preference provides tax relief to nonprofit outpatient dialysis facilities, which outperform for-profit counterparts on two standard measures

### Nonprofit Hospitals and Cancer Clinics

**Conclusion:** Property tax exemptions for nonprofit hospitals and cancer clinics meet the inferred intent of encouraging charity care and community benefits. Beneficiaries provide 99% of charity care statewide. The value of charity care exceeds tax savings.

### Commercial Airplane Parts | Place of Sale

**Conclusion:** While the preference clarifies place of sale of certain airplane parts, it appears to conflict with policy objectives by providing more advantageous tax treatment to out-of-state manufacturers of airplane parts than to in-state manufacturers.

### Commuter Air Carrier Airplanes (Sales and use tax)

**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.

### Financial Institutions' Income from Certain Airplane Loans

**Conclusion:** The preference provides targeted financial relief to two airlines headquartered in Washington.

## Open recommendations from performance audits

### Medicaid Reimbursement Under CARES Programs

HCA's reimbursement standards for fire departments' Community Assistance Referral and Education Services (CARES) programs overlap with a federally funded program. They are unlikely to generate additional savings for the state.

The Legislature should **consider repealing or revising the statutory direction.**

### Unemployment Insurance Training Benefits Program

ESD's Training Benefits Program caused most participants to earn less than their peers over time. It is not meeting the Legislature's stated objective to enhance participants' earning power.

The Legislature should **consider eliminating or modifying the program.**

### Regulation of Ambulatory Surgical Facilities

The Department of Health (DOH) had not met its goal for how frequently it performs state licensing surveys (inspections) of ambulatory surgical facilities. Collecting fees annually, rather than on a 3-year cycle, would provide revenue stability and allow DOH to respond more quickly to program and cost changes.

The Legislature should **consider amending statute** to permit DOH to collect ambulatory surgical facility license fees annually.

### Impact Fee Deferral Programs

Deferral use has been infrequent and concentrated in five local governments, with few adverse effects. Financial benefit of deferrals could increase in a slower housing market with higher interest rates. The Legislature should:

- **Consider whether liens are a necessary tool** to ensure that deferred fees are paid.
- **Either repeal Commerce's data collection requirement or identify the measures Commerce should collect for** ongoing program oversight.

The 2023 Legislature considered three bills – HB 1252, HB 1468, HB 1362 – that addressed the recommendations. The bills did not pass.



## Legislature adopted bills to implement Legislative Auditor recommendations

### Five bills continued tax preferences or programs that were scheduled to sunset

#### Tax preferences

<a href="#">Hog Fuel to Produce Energy</a>	HB 1018 (2023)
<a href="#">Modifying Large Private Airplanes Owned by Nonresidents</a>	SB 6086 (2022)
<a href="#">Tribal Lands Used for Economic Development</a>	HB 2230 (2020)

#### Sunset reviews

<a href="#">Joint Center for Aerospace Technology Innovation</a>	2SSB 6139 (2020)
<a href="#">Alternative Public Works Contracting Procedures</a>	SB 5032 (2021)

### Seven bills implemented recommendations

#### Tax preferences

[Property Tax Exemption for Multifamily Housing in Urban Areas](#) - SB 5287 (2021)

Direct cities to include analysis of profitability as a consideration in offering or approving exemptions.

[Farmworker Housing](#) - SB 5396 (2021)

Include a performance statement and determine if preference should align with other housing practices.

[Health Benefit Exchange](#) - HB 1765 (2022)

Extend the July 2023 expiration date or make the preference permanent.

[Reduced B&O Rate for Printing and Publishing Newspapers](#) - SB 5199 (2023)

Determine if preference provides sufficient relief to newspaper printers and publishers.

[Targeted Urban Area Exemption](#) - SB 5849 (2022)

Modify the preference's population criteria and determine an expiration date for new participants.

[Food Processors](#) - HB 1573 (2023)

Continue and/or clarify the tax preferences for processors of dairy products, fruits & vegetables, and seafood.

#### Sunset review

[Medicaid Fraud Qui Tam Provisions](#) - SB 5163 (2023)

Reauthorize the qui tam provisions in the Medicaid Fraud False Claims Act.

### No bill action needed to continue four tax preferences and allow two to expire

The Legislative Auditor recommended continuing these preferences. They do not have expiration dates, so no action is needed.

- [Shipping Farm Products to Interim Storage](#)
- [Livestock Nutrient Management Equipment](#)
- [Medical Cannabis Tax Preferences](#)
- [Historic Automobile Museums Sales and Use Tax Deferral](#)
  - The Legislative Auditor notes that after the current deferral is repaid in 2032, the tax preference will no longer be necessary in statute.

The Legislative Auditor recommended allowing these preferences to expire. No legislative action is needed.

[Food Processors \(Dairy products used as an ingredient\)](#) - Preference expires July 1, 2025

[Credit for Renewable Energy Program Payments](#) - Preference expires June 30, 2030