21-06 FINAL REPORT: 2021 TAX PREFERENCE PERFORMANCE REVIEWS

Manufacturers' Deferral

LEGISLATIVE AUDITOR'S CONCLUSION:

Four businesses used the tax deferral and met job goals through temporary construction work rather than permanent manufacturing jobs. Businesses likely would have built the facilities without the deferral. To increase manufacturing jobs or training, the Legislature should consider modifying the deferral program.

December 2021

Executive Summary

Tax deferral for manufacturers that build or expand facilities or purchase equipment

Estimated Biennial Beneficiary Savings
$240,000 - $380,000
Tax Type
Sales and Use Tax
Chapter 82.85 RCW
Applicable Statutes

In 2015, the Legislature established a sales and use tax deferral that allows manufacturers constructing eligible investment projects to apply to defer paying taxes on up to $10 million per project when they:

- Build, expand, or remodel manufacturing facilities.
- Purchase machinery or equipment.

Statute originally limited the deferral to five manufacturing businesses. Since 2018, two additional manufacturers can receive the deferral every year - one each in Eastern and Western Washington.

Manufacturers must begin repaying the deferred taxes in the fifth year after the project is complete and make equal repayments over a ten-year period.

Repayments are used to fund state and local government activities:

- The state portion of the deferred taxes (6.5%) is deposited into the Invest in Washington account to fund job training and apprenticeship programs in the manufacturing sector. This account is managed by the State Board for Community and Technical Colleges.
- The local portion is distributed to local governments to fund various programs.

The deferral program is scheduled to expire for new participants on January 1, 2026.

Legislative job goal met through temporary construction work rather than permanent manufacturing jobs

The Legislature set a goal for businesses receiving the deferral: if each business generates 20 full-time jobs and if training opportunities increase, the Legislative Auditor should recommend extending the deferral expiration date. The Legislature defined "full-time job" to include:

- Temporary construction positions attributable to the construction activity at the manufacturing facility.
- Permanent, full-time jobs at the facility site within one year after the facility is deemed operationally complete.

Objectives (stated)	Results
Create and retain jobs. The Legislature set a goal that each project generate at least 20 full-time jobs.	**Met**. Each business using the deferral met the goal of creating 20 jobs through temporary construction work. None of the businesses created 20 permanent manufacturing jobs at the eligible sites.
Provide funding to support job readiness training, professional development, or apprenticeship programs in the manufacturing or production occupations.	**No impacts yet on job training programs.** • To date, no businesses have reached the deadline to begin repayment of deferred taxes so no money has been deposited into the training account. • The deferral program has not been used to the fullest extent possible.

Recommendation

Legislative Auditor's Recommendation: Extend and modify

The Legislature should extend the January 1, 2026, expiration date because each business has met the legislative goal of creating 20 jobs. Although no businesses have repaid deferred taxes yet, the repayments are expected to fund training in the future.

If the Legislature wants the deferral program to encourage businesses to create and retain more manufacturing jobs in the state, and provide more training and apprenticeship opportunities earlier, it should consider:

- Modifying the deferral program to focus more on creating full-time manufacturing jobs, rather than temporary construction work.
- Directly appropriating money for training and apprenticeships in the manufacturing sector to the State Board for Community and Technical Colleges.

You can find more information in Recommendations.

Commissioners' Recommendation

The Commission endorses the Legislative Auditor’s recommendation without comment.

Committee Action to Distribute Report

On December 1, 2021 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 Legislative Auditor recommendations.

REVIEW DETAILS

1. Deferral intended to create manufacturing jobs, fund training

Sales and use tax deferral for manufacturers to build or expand facilities, purchase machinery or equipment

The Legislature established this deferral program in 2015 as a pilot project, with limits on the number of participants and the amount of taxes that could be deferred. Businesses with eligible investment projects must apply to the Department of Revenue for approval.

The preference is scheduled to expire for new participants on January 1, 2026.

Preference intended to encourage a limited number of geographically diverse manufacturers to build or expand facilities and add jobs

The preference allows manufacturers to defer paying sales or use taxes on up to $10 million of expenses when they:

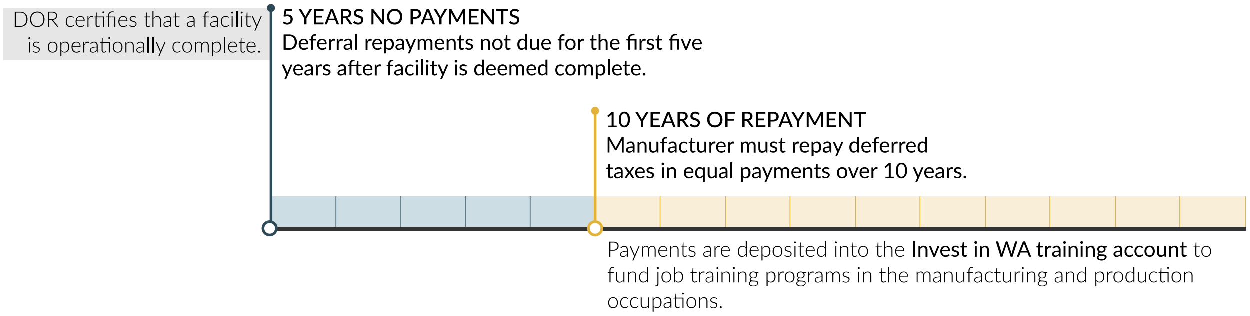
- Build, expand, or remodel manufacturing facilities.
- Purchase machinery or equipment.

The Legislature initially limited the program to five businesses, two of which had to be located in Eastern Washington. The Legislature expanded the deferral program so that beginning in 2018, two additional businesses could use it every year, one in Eastern Washington and one in Western Washington.

Beneficiaries required to repay deferred taxes over time

After the Department of Revenue determines that a facility is operationally complete, businesses have five years until they must begin to repay their deferred taxes. Repayments are required in equal installments over a 10-year period, with no interest accrued if paid on time.

Exhibit 1.1: Manufacturers have up to 15 years to repay their deferred taxes



Source: JLARC staff analysis of chapter 82.85 RCW.

Tax repayments expected to fund job training and apprenticeships for manufacturers

When businesses repay the deferred sales and use taxes, the state portion of the tax (6.5%) is deposited into the Invest in Washington (IIW) account created in the State Treasury. The Legislature directed the State Board for Community and Technical Colleges (SBCTC) to use the IIW account to support the following programs for the manufacturing and production occupations:

- Customized training programs.
- Job skills and job readiness programs.
- Workforce professional development.
- State approved apprenticeships.

Legislative Auditor to recommend extending the deferral program if businesses meet job goals and training opportunities increase

The Legislature set a goal for each participating business to generate 20 full-time jobs from their deferral projects. Statute defined full-time jobs to include:

- Temporary construction positions attributable to the construction activity at the manufacturing facility.
- Permanent, full-time jobs at the facility within one year of when the facility is deemed operationally complete.

Statute directs the Legislative Auditor to recommend extending the deferral's expiration date if the businesses meet the jobs goal and training opportunities increase in the manufacturing and production occupations.

2. Participants have deferred 18% of the maximum allowable amount

Fewer businesses have used the deferral than are eligible to under the law. Participating businesses have deferred 18% of the maximum allowable amount.

This report details four businesses with facilities that are operationally complete

As of December 31, 2020, four businesses have built facilities using the deferral program and have filed annual tax performance reports with the Department of Revenue. Statute permits JLARC staff to disclose the names of the businesses, value of deferrals, and employment and wage details included in annual reports filed since 2018. JLARC staff obtained authorization from the individual businesses to disclose other information.

There may be additional businesses that have applied for a deferral or begun building a facility. Due to confidentiality concerns, this report only includes businesses that have filed an annual tax performance report.

As of December 2020, the total deferred state sales tax is 18% of the maximum amount allowed under the program

If the program were used to its full extent, 11 businesses would be participating: five from the initial pilot group; two more per year for 2018, 2019, and 2020.

The four businesses with completed projects have deferred a total of 18% of the maximum amount that the program allows. JLARC staff calculated this percentage by comparing the actual amount of state sales taxes deferred ($1.3 million) to the potential amount deferred if the program were used to the fullest extent possible ($7.2 million).

Actual use of the deferral program is lower because:

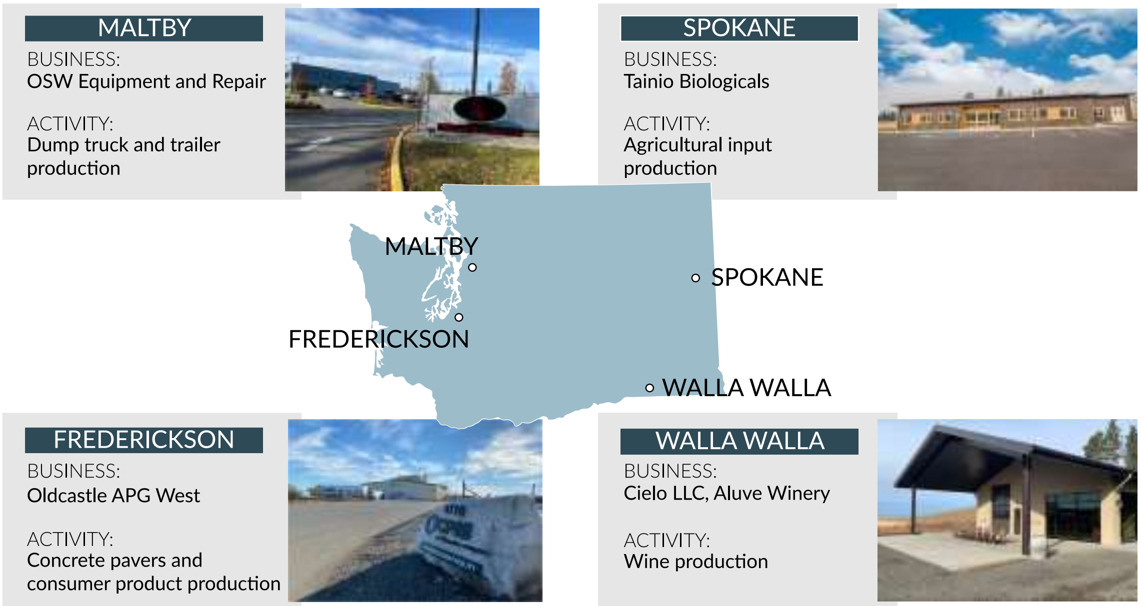
- Only four businesses out of a potential 11 are participating as of December 31, 2020.
- Annual tax performance reports indicate only one of the four businesses reported reaching the $10 million spending limit.

Staff from the Department of Revenue suggested that the requirement to repay the deferred taxes may deter some businesses from participating in the program.

Beneficiaries represent different types of manufacturing activities

The manufacturers using the deferral program include two facilities in Eastern Washington and two in Western Washington. They represent a variety of manufacturing activities.

Exhibit 2.1: Four businesses are using the deferral and have completed their projects



Source: JLARC staff analysis of current deferral participants per Department of Revenue tax incentive website detail and interviews with deferral participants.

Businesses likely would have built facilities without the deferral

JLARC staff interviewed representatives from the four manufacturers to learn more about their use of the deferral and their perspective on its benefit to their businesses.

All four businesses indicated that they would have built new facilities without the deferral. However, they reported that the deferral program allowed them to build earlier, complete more than they initially expected, and plan for future growth. They also said repayment was less burdensome because they could spread the tax liability over several years.

Exhibit 2.2: Deferral participants report that they would have built in some capacity without the incentive

Business name and facility location	Manufacturing activity at facility	How did you learn about the deferral?	Would you have built if the deferral was not available?	How do you see the deferral benefiting your company?
Cielo LLC, Aluvé Winery, Walla Walla	Wine production.	Accountant.	Yes. Likely could not have built the facility we now have at that time without the deferral.	Ability to push out some of the construction costs 5 to 15 years when our revenue stream will likely be better.

Oldcastle APG West, Frederickson	Concrete pavers and consumer product production.	Unsure.	Yes, but we may have built elsewhere in the state.	The reduction in up-front expenses was helpful to the operation's bottom line.
OSW Equipment and Repair, Maltby	Dump truck and trailer production.	Self-search for available incentives.	Yes.	Able to spend the money on tooling, equipment.
Tainio Biologicals, Spokane	Agricultural input production.	Area economic development group or banker.	Likely, but we may have had to delay construction or not built as much as we were able to by using the deferral.	The reduction in initial investment costs helped us build for future growth.

Source: JLARC staff interviews with beneficiary representatives or owners, October - November 2020.

Beneficiaries are estimated to save between $240,000 and $380,000 in the 2023-25 biennium. The benefit to beneficiaries is equivalent to an interest-free loan.

The deferral allows beneficiaries to delay paying the taxes they owe. Rather than paying sales tax at the time of purchase, businesses must begin repaying the taxes five years after a facility is operationally complete. As long as businesses make payments on time over a 10-year period, they are not charged interest.

JLARC staff assume that the financial benefit to beneficiaries is equivalent to an interest-free loan.

Beneficiaries are estimated to save between 1.4% and 2.8% of total project costs

JLARC staff estimated a range of tax savings that beneficiaries may realize over the life of their repayments. The estimates are based on assumptions for low and high interest rates that the businesses may have been charged if they had borrowed money for the term of the deferral.

For 2020 through 2025, JLARC staff estimates assume that:

- Future use of the deferral is the same as the average historical use of the deferral.
- One new business will claim the deferral each year for $5 million. The limit under current law is two $10 million projects per calendar year.

Exhibit 2.3: If future use of the deferral is similar to current use, beneficiaries are estimated to save between $240,000 - $380,000 in the 2023-25 biennium

Calendar Year	Total Qualifying Investment	State Sales Tax Deferred	Local Sales Tax Deferred	Combined Sales Tax Deferred	Beneficiary Savings		
					(Low estimate assuming low interest rate)	-	(High estimate assuming high interest rate)
2016	$9,324,462	$606,090	$213,210	$819,300	$160,000	-	$370,000
2017	$0	$0	$0	$0	$0	-	$0
2018	$10,000,000	$650,000	$120,000	$770,000	$210,000	-	$390,000
2019	$611,524	$39,749	$9,784	$49,533	$10,000	-	$30,000
2020	$5,000,000	$325,000	$115,000	$440,000	$90,000	-	$210,000
2021	$5,000,000	$325,000	$115,000	$440,000	$100,000	-	$190,000
2022	$5,000,000	$325,000	$115,000	$440,000	$110,000	-	$190,000
2023	$5,000,000	$325,000	$115,000	$440,000	$120,000	-	$190,000
2024	$5,000,000	$325,000	$115,000	$440,000	$120,000	-	$190,000
2025	$5,000,000	$325,000	$115,000	$440,000	$120,000	-	$190,000
2023-25 Biennium	**$10,000,000**	**$650,000**	**$230,000**	**$880,000**	**$240,000**	**-**	**$380,000**

Source: JLARC staff analysis of annual tax performance reports filed with the Department of Revenue, Small Business Administration loan rate detail, and IHS-Global Insight forecast data, with interest rates ranging from 2.3% to 7.9%. The date that a project is deemed operationally complete is not disclosable. JLARC staff estimated the operationally complete dates for projects by assuming that each project was completed in the year for which the business filed its initial annual tax performance report with the Department of Revenue.

3. Job goals met through temporary construction work

All four businesses met the goal of creating 20 jobs through temporary construction work rather than permanent manufacturing jobs

The Legislature set a goal for each participating business to generate 20 full-time jobs from their deferral projects. If the businesses did so, statute directs the Legislative Auditor to recommend extending the deferral's expiration date. The Legislature defined full-time jobs to include:

- Temporary construction positions attributable to the construction activity at the manufacturing facility.

- Permanent, full-time jobs at the facility within one year of when the facility was deemed operationally complete.

This section will provide details on the initial construction jobs created at participating facilities and the permanent, full-time jobs that the businesses reported in the year after the facilities were complete.

Each business met the legislative job goal through temporary construction work

The four businesses with completed projects reported an average of eight to 84 construction jobs per calendar year quarter.

- Three businesses reported at least 20 temporary construction jobs in at least one calendar year quarter during facility construction.
- The fourth business did not report 20 or more construction jobs in any one quarter. However, JLARC staff determined from interviews that at least 20 construction workers were involved in building the facility.
- Businesses reported between three to six quarters of construction work.

JLARC staff estimate that the businesses employed the equivalent of five to 69 full-time individuals per quarter

The Legislature's definition of a full-time job for this program allows businesses to meet the 20-job goal with part-time construction labor.

JLARC staff further analyzed the reported job numbers to estimate an equivalent number of individuals working full-time on the deferral projects. The estimates assume that one full-time employee works 520 hours per calendar quarter. Based on this analysis, JLARC staff estimate between five and 69 full-time equivalent individuals worked on the four respective projects per quarter.

For example, OSW Equipment and Repair reported an average of 84 construction jobs per quarter. This is equivalent to 69 individuals working full-time for the six quarters that the project was under construction.

Exhibit 3.1: The four participating businesses reported a range in the number of construction hours and jobs

	REPORTED BY BENEFICIARIES				JLARC STAFF ESTIMATE
	Construction project length (quarters)	Avg. construction employment per quarter	Avg. construction hours per quarter	÷ 520 hrs/quarter = Full time equivalency as determined by JLARC staff =	Full-time employees per quarter
OSW Equipment & Repair	6	84	35,842		69
Tainio Biologicals	3	52	2,810		5
Oldcastle APG	6	13	6,926		13
Cielo	5	8	3,488		7

Note: The average quarterly construction jobs are self-reported by each business and are not verified by the Department of Revenue (DOR). Businesses indicated they had difficulty obtaining job numbers, hours worked, and wage detail from third party contractors and subcontractors. JLARC staff's estimated number of individuals working full-time is based on one person working 520 hours per quarter.

Source: JLARC staff analysis of the businesses' annual tax performance reports filed with the Department of Revenue and subsequent correspondence and interviews with the businesses. JLARC staff obtained authorization from each business to disclose project length and reported construction hours and job detail.

Deferral may have affected the scale of the construction projects and associated jobs

As noted in Exhibit 2.2, the four beneficiaries told JLARC staff they would have built their facilities even without the deferral program. This means that the deferral program did not cause the construction activity to occur, nor did it cause the temporary construction jobs associated with the qualifying projects. The deferral may have affected the scale of the construction projects and associated jobs, but data is not available for JLARC staff to estimate the size of the effect.

Facility construction likely temporarily increased economic activity in four counties

JLARC staff used an economic modeling tool to estimate the temporary impacts of construction activity in the four counties where the manufacturing facilities were built. Construction costs for the four businesses totaled an estimated $27.8 million.

JLARC staff modeled a $27.8 million increase in manufacturing structure construction sales, distributed across four counties. The economic analysis suggests that the construction spending supported an additional 122 temporary jobs in other industries in the four counties where construction occurred. These jobs are likely temporary as the increased spending associated with the construction activity would end when the facility was complete.

Assuming the construction activity would have occurred regardless of the deferral program, the preference did not cause the local county economic impacts. See Appendices A and B for more details.

Deferral program did not create 20 permanent manufacturing jobs at the four facility sites

Although beneficiaries met the job goal through construction work, none of the beneficiaries reported creating 20 full-time manufacturing jobs at the facilities one year after project completion. JLARC staff estimated manufacturing job losses or gains at each facility by comparing the number of manufacturing jobs the businesses reported in their initial tax performance reports to the number of jobs in their reports filed one year after construction. JLARC staff obtained authorization from each business to disclose the job data.

Exhibit 3.2: One year after construction, one business reported manufacturing job losses and two reported gains

Source: JLARC staff analysis of annual tax performance report data submitted to Department of Revenue and correspondence with businesses. JLARC staff assumed that the first year for which a business filed a tax performance report was the same year its project was deemed operationally complete. JLARC staff obtained authorization from each business to disclose job data.

4. No impacts yet on job training funds

No deferred taxes have been repaid yet, so no funds have been spent on job training

When this report was completed, none of the beneficiaries had begun to repay their deferred taxes. Once repayments begin, the state portion of the deferred taxes (6.5%) must be deposited into the Invest in Washington (IIW) account. The funding will be used to support the following programs in the manufacturing and production occupations:

- Customized training programs.
- Job skills and job readiness programs.
- Workforce professional development.
- State approved apprenticeships.

Deposits in the Invest in Washington account are estimated to begin in 2022

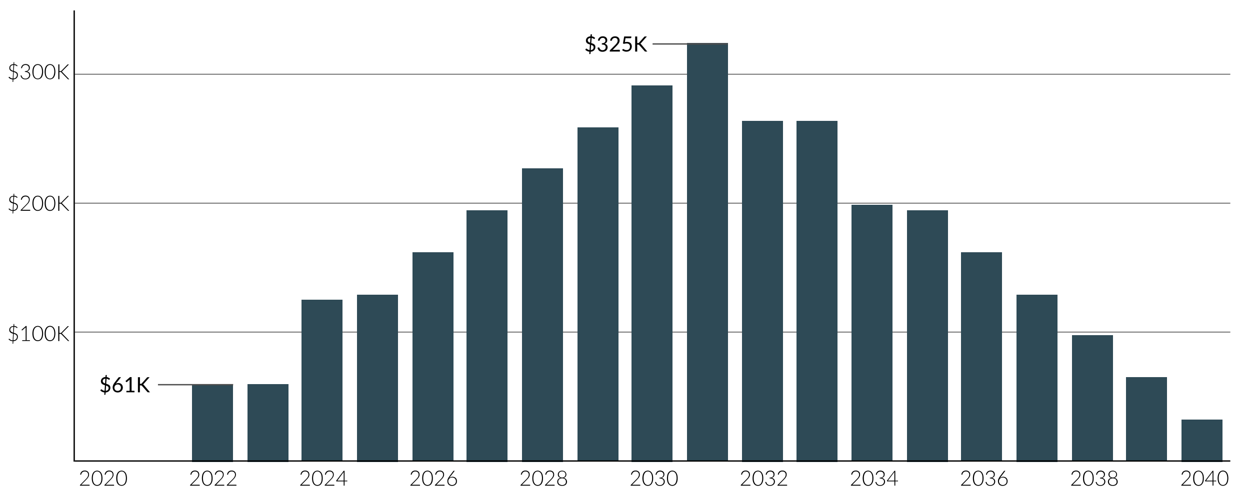
Businesses have five years to begin repaying their deferred taxes from the date that the Department of Revenue certifies a project is operationally complete. Because project completion dates are not disclosable, JLARC staff estimated future funding for the IIW account using the following assumptions:

- Each of the four projects was operationally complete in the year for which the business filed its first annual tax performance report with the Department of Revenue.
- The first repayments of deferred taxes are estimated to occur by December 31, 2021, and the State Treasurer is expected to make the first deposit into the IIW account by July 1, 2022.

- Estimated future deposits will include repayments from the four current participants and one new $5 million deferral project each year from 2020 through 2025. The program expires to new applicants on January 1, 2026.
- All payments will be made on time.

Based on these assumptions, the estimated repayments deposited into the IIW account over the life of the program would total $3.2 million.

Exhibit 4.1: If current and estimated future beneficiaries repay their taxes on time, training funds are estimated to reach a high of $325,000 in 2031



Source: JLARC staff calculations based on actual current and estimated future use of the deferral program. JLARC staff assume that each of the four projects was operationally complete in the year for which the business filed its first annual tax performance report.

Funding for the Invest in Washington account will likely be lower than anticipated

Four businesses are currently participating in the deferral program. If the program were used to its full capacity, up to 11 businesses could be participating as of December 31, 2020, and each could defer taxes on $10 million per project. These 11 projects alone would equate to a maximum of $7.2 million in potential training funds after the repayment of all deferred taxes.

Lower participation and spending in the program will likely generate less funding for job training programs than the maximum allowed under the program.

State Board for Community and Technical Colleges is developing plans for employee training in the manufacturing and production occupations

The State Board for Community and Technical Colleges (SBCTC) reports that it is developing plans to use the expected funding from the deferral program for employee training and apprenticeships. Plans include:

- Using the existing Workforce Development Funds grant process to award grants to community and technical colleges that support training and apprenticeships for manufacturing and production occupations.
- Coordinating with the Department of Labor and Industries to identify approved manufacturing and production apprenticeship training projects.
- Developing and distributing a Workforce Development Fund request for new apprenticeship proposals.

5. Applicable statutes

Chapter 82.85 RCW

Findings—Tax preference performance statement. (Expires January 1, 2026.)

RCW 82.85.010

(1) Businesses that invest capital create jobs and generate economic activity that supports a healthy Washington economy. The legislature finds that these investments result in future revenues that support schools and our communities. Therefore, the legislature finds that a pilot program must be conducted to evaluate the effectiveness of a program that invests business taxes from new investments into workforce training programs that support manufacturing businesses in the state of Washington thereby creating jobs and capital investments in the state for the benefit of its citizens.

(2)(a) This subsection is the tax preference performance statement for the sales and use tax deferral provided in RCW 82.85.040 on expenditures made to build or expand qualified investment projects and purchases of machinery and equipment. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to create or retain jobs and to provide funding to support job readiness training, professional development, or apprenticeship programs in manufacturing or production occupations, as indicated in RCW 82.32.808(2) (c) and (f).

(c) It is the legislature's specific public policy objective to provide a pilot program that would provide a sales tax deferral on the construction and expenditure costs of up to two new manufacturing facilities per calendar year, one of which must be located in eastern Washington and one of which must be located in western Washington. When deferred taxes are repaid, the deferred taxes are reinvested to support job readiness training, professional development, or apprenticeship programs in manufacturing or production occupations.

(d) To measure the effectiveness of the deferral provided in this part in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee should refer to information available from the employment security department and department of revenue. If a review finds that each eligible investment project generated at least twenty full-time jobs and increased training opportunities for manufacturing and production jobs, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference. For purposes of this subsection (2)(d), the term full-time jobs include both temporary construction jobs and permanent full-time employment positions created at the eligible investment project within one year of the date that the facility became operationally complete as determined by the department of revenue.

(3) This section expires January 1, 2026.

[2017 3rd sp.s. c 37 § 801; 2015 3rd sp.s. c 6 § 401.]

Definitions. (Expires January 1, 2026.)

RCW 82.85.020

(1) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Applicant" means a person applying for a tax deferral under this chapter.

(b) "Eligible investment project" means an investment project for qualified buildings and machinery and equipment on two new, renovated, or expanded manufacturing operations per calendar year, one of which must be located east of the crest of the Cascade mountains and one of which must be located west of the crest of the Cascade mountains. The deferral provided in this section only applies to the state and local sales and use taxes due on the first ten million dollars in costs for qualified buildings and machinery and equipment.

(c) "Initiation of construction" has the same meaning as in RCW 82.63.010.

(d) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(e) "Manufacturing" has the same meaning as provided in RCW 82.04.120.

(f) "Person" has the same meaning as provided in RCW 82.04.030.

(g) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity, used for manufacturing, including plant offices and warehouses or other buildings for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing. If a qualified building is used partly for manufacturing and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

(h) "Qualified machinery and equipment" means all new industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control, monitor, or operate the machinery.

(i) "Recipient" means a person receiving a tax deferral under this chapter.

(2) This section expires January 1, 2026.

[2017 3rd sp.s. c 37 § 802; 2015 3rd sp.s. c 6 § 402.]

Deferral eligibility—Lessor or owner of qualified building.

RCW 82.85.030

The lessor or owner of a qualified building is not eligible for a deferral unless:

(1) The underlying ownership of the building, machinery, and equipment vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual tax performance report required under RCW 82.32.534; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

[2020 c 139 § 47; 2015 3rd sp.s. c 6 § 403.]

Deferral application. (Expires January 1, 2026.)

RCW 82.85.040

(1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application must be made to the department in a form and manner prescribed by the department. The deferrals are available on a first-in-time basis. The application must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department must rule on the application within sixty days.

(2) The department may not approve applications for more than two eligible investment projects per calendar year.

(3) This section expires January 1, 2026.

[2017 3rd sp.s. c 37 § 803; 2015 3rd sp.s. c 6 § 404.]

Deferral certificate—Issued by the department.

RCW 82.85.050

(1) Except as otherwise provided in subsection (2) of this section, the department must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, 82.14, and 81.104 RCW on each eligible investment project.

(2) No certificate may be issued for an investment project that has already received a deferral under this part [chapter] or chapter 82.60 RCW.

(3) The department must keep a running total of all deferrals granted under this chapter during each fiscal biennium.

[2015 3rd sp.s. c 6 § 405.]

Repayment—Deferred taxes.

RCW 82.85.060

(1) The recipient must begin paying the deferred taxes in the fifth year after the date certified by the department as the date on which the investment project has been operationally completed. The first payment of ten percent of the deferred taxes will be due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments of ten percent of the deferred taxes due on December 31st for each of the following nine years.

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) Interest may not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

[2015 3rd sp.s. c 6 § 406.]

Invest in Washington account—Created—Funded.

RCW 82.85.070

(1) State taxes deferred and repaid under this chapter, including any interest or penalties on such amounts, must be deposited in the invest in Washington account created in this section. The invest in Washington account is hereby created in the state treasury [and] must be used exclusively by the state board for community and technical colleges for supporting customized training programs, job skills programs, job readiness training, workforce professional

development, and to assist employers with state-approved apprenticeship programs for manufacturing and production occupations.

(2) Revenues to the invest in Washington account consist of amounts transferred by the state treasurer as provided in subsection (3) of this section.

(3) By June 1, 2016, and by June 1st of every subsequent year, the department must notify the state treasurer of the amount of tax, interest, and penalties collected under this section since September 1, 2015, through May 1, 2016, in the case of the first notification under this subsection (3), and since the previous May 1st for subsequent notifications under this subsection (3). The department may make adjustments to the annual notification under this subsection (3) as may be necessary to correct errors in the previous notification or offset previous amounts that did not qualify for deferral under this section.

(4) By July 1, 2016, and by July 1st of every subsequent year, the state treasurer must transfer the amount included in the department's most recent notification under subsection (3) of this section from the general fund to the invest in Washington account. Money in the account may only be appropriated for the purposes specified in subsection (1) of this section.

[2015 3rd sp.s. c 6 § 407.]

Annual tax performance report.

RCW 82.85.080

(1) Each recipient of a deferral of taxes granted under this chapter must file a complete annual tax performance report with the department under RCW 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.85.030, the lessee must file a complete annual tax performance report, and the applicant is not required to file a complete annual tax performance report.

(2) If, on the basis of a tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is not eligible for tax deferral under this chapter due to the fact the investment project is no longer used for qualified activities, the amount of deferred taxes outstanding for the investment project is immediately due and payable.

(3) If the economic benefits of a tax deferral under this chapter are passed to a lessee as provided in RCW 82.85.030, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

[2020 c 139 § 48; 2015 3rd sp.s. c 6 § 408.]

Short title.

RCW 82.85.900

This part [chapter] may be known and cited as the invest in Washington act.

[2015 3rd sp.s. c 6 § 409.]

Appendix A: REMI overview

What is REMI?

JLARC staff used Regional Economic Models, Inc.'s (REMI) 39-region Tax-PI software (version 2.4.2) to model the economic impacts of the 2021 tax preference review of the sales and use tax deferral for manufacturing facility construction and equipment purchases.

Multiple state government, private sector consulting firms, and research universities also use REMI's dynamic economic modeling to evaluate policy impacts.

Model is tailored to Washington and includes a government sector

Tax-PI is an economic impact tool used to evaluate the fiscal and economic effects and the demographic impacts of a tax policy change. The software includes various features that make it particularly useful for analyzing the economic and fiscal impacts of tax preferences:

- REMI staff consulted with staff from the Office of Financial Management (OFM) and customized a statewide model to reflect Washington's economy.
- The model contains 70 industry sectors, based on the North American Industry Classification system (NAICS) codes.
- In contrast to other modeling software, Tax-PI includes state and local government as a sector. This permits users to see the trade-offs associated with tax policy changes (e.g., effects on Washington's economy from both increased expenditures by businesses due to a tax preference, along with decreased spending by government due to the associated revenue loss).
- For current revenue and expenditure data, users can input information to reflect their state's economic and fiscal situation. This allows JLARC staff to calibrate a state budget using up-to-date information from the Economic and Revenue Forecast Council (ERFC) and the Legislative Evaluation and Accountability Program (LEAP).
- The model can forecast economic and revenue impacts multiple years into the future.

Model simulates the full impact of a tax policy change

The REMI model accounts for the direct, indirect, and induced effects as they spread through the state's economy, which allows users to simulate the full impact of a tax policy change over time.

- Direct effects are industry specific and capture how a target industry responds to particular policy change (e.g., changes in industry employment following a change in tax policy).
- Indirect effects capture employment and spending decisions by businesses in the targeted industry's supply chain that provide goods and services.
- Induced effects capture the in-state spending and consumption habits of employees in targeted and related industries.

The REMI model produces year-by-year estimates of the total statewide effects of a tax policy change. Impacts are measured as the difference between a baseline economic and revenue forecast and the estimated economic and revenue effects after the policy change.

Model includes economic, demographic, and fiscal variables

The REMI model is a macroeconomic impact model that incorporates aspects of four major economic modeling approaches: input-output; general equilibrium; econometric; and new economic geography. The foundation of the model, the inter-industry matrices found in the input-output models, captures Washington's industry structure and the transactions between industries. Layered on top of this structure is a complex set of mathematical equations used to estimate how private industry, consumers, and state and local governments respond to a policy change over time.

- The supply side of the model includes many economic variables representing labor supply, consumer prices, and capital and energy costs.
- Regional competitiveness is modeled via imports, exports, and output.
- Demographics are modeled using population dynamics (births, deaths, and economic and retirement migration) and include cohorts for age, sex, race, and retirement.
- Demographic information informs the model's estimates for economic consumption and labor supply.
- The dynamic aspect comes from the ability to adjust variables over time as forecasted economic conditions change.

While the model is complex and forecasting involves some degree of uncertainty, Tax-PI provides a tool for practitioners to simulate how tax policy and the resulting industry changes affect Washington's economy, population, and fiscal situation.

Appendix B: REMI analysis

REMI analysis shows the potential employment impacts of constructing the facilities that receive the deferral

JLARC staff used Regional Economic Models, Inc.'s (REMI) Tax-PI tool to model a scenario that illustrates potential employment impacts of a total of $27.8 million in construction expenditures to build four manufacturing facilities that received the deferral in four different counties.

This technical appendix provides context and supporting information for the analysis and results summarized in Section 3.

REMI methodology

User inputs in REMI

REMI's Tax-PI model allows users to estimate the impacts of policy changes to Washington's economic activity and government finances (see Appendix A for an overview of the REMI model).

Before modeling policy scenarios, JLARC staff set parameters by calibrating the model to the state budget. JLARC staff used the November 2020 revenue estimates produced by the Economic and Revenue Forecast Council (ERFC) and budgeted expenditures from the 2020 budget, as reported by the Legislative Evaluation and Accountability Program (LEAP) Committee. These sources provide the budget and revenue data for the model and serve as the starting point for Tax-PI's economic and fiscal forecasts.

Users also specify whether government expenditures are determined by demand or revenue.

- "By demand" imposes a level of government spending in future years that is necessary to maintain the same level of service as the final year in which budget data is entered.
- "By revenue" ties government expenditures to estimated changes in revenue collections.

JLARC staff modeled the scenarios with expenditures set to be determined **by demand**. This avoids making assumptions about how policymakers may alter spending priorities in the future. In addition, current budget allocations are carried forward for each expenditure category.

To best isolate the effects of a hypothetical removal of the tax preference, JLARC staff modeled the scenarios with the **balanced budget restriction** turned off. The balanced budget restriction forces revenue and expenditures to be equivalent, and doing so may impose some limitations on economic activity and obscure the effects of a policy change.

Because Tax-PI is a forecasting tool, JLARC staff were unable to model the employment impacts of the preference beginning in 2016, the first year the deferral was claimed. Rather, JLARC staff modeled the potential impacts of the construction expenditures as if all four deferrals were first claimed in 2019.

Data for the REMI model

The REMI model includes historical and demographic data from 2001 onward. The data comes from federal government agencies, such as the U.S. Census Bureau, U.S. Energy Information Administration, the Bureau of Labor Statistics, and the Bureau of Economic Analysis. As described above, current revenue and expenditures data for Washington comes from ERFC and LEAP. The inputs for the modeled scenario described below are based on JLARC staff estimates and on beneficiary application data concerning construction costs of eligible deferral projects.

Model estimates the employment impact of construction spending increase

The scenario modeled does not evaluate the construction impact of the sales and use tax deferral. Beneficiaries indicated they would still have constructed these facilities absent the preference.

Rather, the modeled scenario illustrates the number of direct construction jobs and indirect and induced non-construction jobs associated with the construction of these four facilities. To do so, the scenario increased construction industry sales.

REMI enables the user to determine the specific industry that experiences the sales increase. For the construction industry, REMI includes 12 different sub-industries (see table below). JLARC staff elected to model the increase in sales to the manufacturing structures construction subsector because the facilities benefiting from the deferral are all manufacturing facilities.

Detailed Construction Industries in REMI
Nonresidential maintenance and repair
Residential maintenance and repair
Health care structures
Manufacturing structures
Power and communication structures
Educational and vocational structures
Office and commercial structures
Transportation structures and highways and streets
Other nonresidential structures
Single-family residential structures
Multifamily residential structures
Other residential structures

Source: REMI Tax-PI Version 2.4.2.

JLARC staff modeled a $27.8 million increase in manufacturing structure construction sales, distributed across four counties. The economic analysis suggests that the construction spending supported an additional 122 temporary jobs in other industries in the four counties where construction occurred. These jobs are likely temporary as the increased spending associated with the construction activity would end when the facility was complete.

RECOMMENDATIONS & RESPONSES

Legislative Auditor's Recommendation

Legislative Auditor's Recommendation: Extend the expiration date and modify the program

The Legislature should extend the January 1, 2026, expiration date because each business has met the legislative goal of creating 20 jobs. Although none of the businesses have repaid their deferred taxes yet, the repayments are expected to fund training in the future.

If the Legislature wants the deferral program to encourage businesses to create and retain more manufacturing jobs in the state, and to provide more training and apprenticeship opportunities sooner, it should consider:

- Modifying the deferral program to focus more on creating full-time manufacturing jobs, rather than temporary construction work.
- Directly appropriating money for training and apprenticeships in the manufacturing sector to the State Board for Community and Technical Colleges.

Legislation Required: Yes

Fiscal Impact: Depends on legislative action.

Letter from Commission Chair

State of Washington

Citizen Commission for Performance Measurement of Tax Preferences

COMMISSION MEMBERS

Dr. Grant Forsyth *Chair*
Avista Corp.

Ronald Bueing *Vice Chair*

Diane Lourdes Dick
Seattle University School of Law

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October 27, 2021

The Honorable Senator Christine Rolfes
The Honorable Senator Lynda Wilson
The Honorable Senator Mark Mullet
The Honorable Senator Perry Dozier
The Honorable Senator Annette Cleveland
The Honorable Senator Ron Muzzall
The Honorable Senator Reuven Carlyle
The Honorable Senator Doug Ericksen
The Honorable Senator Karen Keiser
The Honorable Senator Curtis King
The Honorable Representative Timm Ormsby
The Honorable Representative Drew Stokesbary
The Honorable Representative Noel Frame
The Honorable Representative Ed Orcutt
The Honorable Representative Cindy Ryu
The Honorable Representative Bill Jenkin
The Honorable Representative Eileen Cody
The Honorable Representative Joe Schmick
The Honorable Representative Joe Fitzgibbon
The Honorable Representative Mary Dye
The Honorable Representative Shelly Kloba
The Honorable Representative Drew MacEwen

Re: 2021 Tax Preference

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**. Our comments are informed by JLARC staff work, public testimony and our professional knowledge of Washington's tax structure.

The Citizen Commission consists of five voting members, appointed by each of thefour caucuses and the Governor's office and represent a broad range of ideologies and professional backgrounds. Members include a retired tax attorney and CPA, a Seattle University law professor, the president of the Edmonds Education Association, a University of Washington public policy professor, and myself, the Chief Economist at Avista. Notably, reviews this year included:

Four preferences in which the Legislative Auditor recommended legislative action:

- A review of a preference for Manufacturers' Deferral, in which the Legislative Auditor concluded that "*Four businesses used the tax deferral and met job goals through temporary construction work rather than permanent manufacturing jobs. Businesses likely would have built the facilities without the deferral. To increase manufacturing jobs or training, the Legislature should consider modifying the deferral program.*"
- A review of a Reduced B&O Rate for Printing and Publishing Newspapers, in which the Legislative Auditor concluded that "*The preference provides tax relief to newspaper printers and publishers and saves these businesses money. However, the newspaper industry continues to lose revenue and jobs as it seeks to stabilize financially.*"

- A review of seven preferences for Medical Cannabis, in which the Legislative Auditor concluded that "*Seven medical cannabis tax preferences provide tax relief to patients and cooperatives. After 2019 statutory changes, it is unclear how pending taxpayer guidance may affect beneficiary savings.*"
- An exemption for the Washington Health Benefit Exchange, in which the Legislative Auditor concluded that "*The preference reduces the Exchange's administrative costs by $1 million per year, allowing it to maximize its funding for operating a health insurance marketplace. The Legislature should extend the July 2023 expiration date or make the preference permanent.*"

Recommendations to allow one preference to expire and to clarify the intent of another

- A review of a Credit for Renewable Energy Program Payments, in which the Legislative Auditor concluded that "*The tax credit program increased Washington's solar capacity and met its solar-related employment target. It did not broaden low-income participation. Solar installations have continued after the program reached its funding limit.*"
- An exemption for Nonprofit Outpatient Dialysis Facilities, in which the Legislative Auditor concluded that "*Preference provides tax relief to nonprofit outpatient dialysis facilities, which outperform for-profit counterparts on two standard measures. Legislature should clarify its intent.*"

One recommendation implemented during the 2021 session

- During the 2021 session, the Legislature amended chapter 84.25 RCW, related to a Targeted Urban Area Exemption to change the population criteria and extend the expiration date, in response to the Legislative Auditor's recommendation.

The full text of the Commission's recommendations is included below and will be added to JLARC's proposed final report in December. Summaries of the JLARC staff's analysis and recommendations and brief video summaries of each preference are 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. These reviews provide valuable information as the Legislature considers whether individual preferences are meeting policy objectives. 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 the Legislative Auditor's recommendation with comment.

SBCTC Response

State Board for Community and Technical Colleges (SBCTC)

Dear Mr. Konopaski,

Thank you for the opportunity to respond to the Joint Legislative Audit and Review Committee's Manufacturers' Deferral Tax Preference review.
The State Board for Community and Technical Colleges are in agreement with the JLARC recommendations provided by the Legislative Auditor. We support extending the tax deferral beyond January 1, 2026, to allow for additional projects, increased employment opportunities, and the continuation of resources directed to help meet the needs of our state's manufacturing sector through the development of educated and skilled workers. We also agree with the recommended modification to focus more on creating full-time permanent manufacturing jobs as a condition of participation. This would have the greatest immediate impact towards the overarching goal of "creating and retaining more manufacturing jobs".

The State Board for Community and Technical Colleges currently manages funding which provides support for increasing student enrollment capacity within the manufacturing and production sector. Our colleges also contribute to today's workforce through a diverse student population, with half being students of color. As our state's job outlook continues to improve and there is greater focus on the manufacturing sector, we are mobilizing resources to best assist our students to immediately engage in the labor market. In order to meet the project objective to support job readiness training, we agree with the final recommendation to directly appropriate resources for training to the State Board for Community and Technical Colleges. An annual allocation will allow us to serve more students and we will continue to use existing guidance and expertise from industry representatives serving on our advisory boards.

In preparation for the Citizen Commission meeting on September 9, please find the following additional information, in addition to our previous response, per the request of the Commissioners.

Is there evidence that the tax preference achieved its purpose, as noted in the 2021 tax preferences reports? The report indicates the tax deferral has not yet had impact on the increased creation and retention of manufacturing jobs. The deferred tax preference did incentivize business participation which resulted in the immediate creation of 20 FTE temporary construction jobs. Once tax repayment begins in December 2021, a portion will be made available for the State Board for Community and Technical Colleges to grant for the support of training activities creating skilled workers in the manufacturing and production sectors. Data currently projects the Washington Investment Fund pool initially at $61,000 for FY 2022, peaking at $325,000 in FY 2031, and declining thereafter until project completion in FY 2040. Using current cost models, the initial $61,000 could support expanding student capacity by 7.5 annualized student FTE. At program peak, we could support an additional 40 annualized student FTE.

Do you believe this preference provides benefits in addition to those stated in its intended or inferred purpose? The model helps to increase public confidence by reinvesting tax resources for skill development and the creation of family wage jobs. It also confirms and raises awareness on the needs of industry and the importance of skilled workers in the manufacturing and production sectors in diverse areas of the state.

Do you believe the taxes associated with any increased economic activity stimulated by this tax preference exceed the preference's loss of tax revenue? Investing in higher levels of educational attainment for the development of skilled workers leading to living wage jobs, provides the basis for personal stability, faster economic growth, and ultimately increased tax revenue.

Do you believe this preference has negative consequences? For example, were other industries, workers, or the environment harmed by activities stimulated by this tax preference? There are no negative consequences that we are aware of, or foresee. We agree with the review and recommendation which cites a need for policy modification to place increased focus on requiring participants create permanent full-time manufacturing jobs as outcome, rather than the option of part-time temporary construction jobs. We encourage that in addition to the geographic diversity already present, we also incorporate goals to improve employment and training opportunities for diverse populations.

Sincerely,
Jan

Jan Yoshiwara
Executive Director
Washington State Board for Community and Technical Colleges
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DOR & OFM Response

STATE OF WASHINGTON

September 7, 2021

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 2021 TAX PREFERENCE PERFORMANCE REVIEWS

The Office of Financial Management and the Department of Revenue have reviewed the Joint Legislative Audit and Review Committee's (JLARC) preliminary report on the 2021 tax preference performance reviews.

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

We have no specific comments on the following reports:

- Health Benefit Exchange
- Manufacturer's Deferral
- Newspapers
- Nonprofit Kidney Dialysis
- Credit for Renewable Energy Program Payments
- Targeted Urban Area Exemption

We continue to support the recommendations of JLARC for the inclusion of performance statements and specific public policy objectives for all tax preferences where they don't exist in statute today to clarify intent.

As you requested, here is the Department of Revenue's response on the recommendation provided in the Medical Cannabis Report.

RECOMMENDATION	AGENCY POSITION	COMMENTS
The Department of Revenue and the Department of Health should update guidance to reflect 2019 statutory changes.	Concur	The Department of Revenue concurs with this recommendation. However, we must wait to publish guidance until the Department of Health (DOH) has provided its guidance. We have worked with DOH and learned it is in the process of updating its public guidance concerning compliant marijuana products. DOH is the authorized agency that determines which products are compliant marijuana products that would qualify for the preference. Once updated guidance has been provided by DOH, the Department of Revenue will update the Sales and Use Tax Exemptions for Marijuana Retailers with a Medical Endorsement special notice that was originally published May 6, 2016, consistent with the DOH guidance.

Thank you again for the opportunity to review this preliminary report.

Commerce Response

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DEPARTMENT OF COMMERCE

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September 14, 2021

Keenan Konopaski, Legislative Auditor
Joint Legislative Audit & Review Committee
106 11th Ave SW, PO Box 40910
Olympia, WA 98504-0910
Keenan.konopaski@leg.wa.gov

Dear Mr. Konopaski,

As requested in your letter dated August, 26, 2021, the Department of Commerce is providing formal comments to the following Joint Legislative Audit and Review Committee's (JLARC) 2021 tax preference reviews. The Department largely agrees with JLARC's recommendations and provides key considerations to advise the Legislature below.

- Credit for Renewable Energy Program Payments. Allows utilities to pay customers for every kilowatt-hour of electricity they generate from their own renewable energy systems.

Commerce offers comments on this tax preference based on its role under RCW 43.21F.045 as the state energy policy office. Commerce has no direct role in the implementation of this tax preference. Commerce has reviewed the comments of the Washington State University Energy Program and agrees with those comments.

Commerce supports the Legislative Auditor's recommendation to allow this tax preference to expire. As noted in the recommendation, the incentive mechanism has largely met its intended purposes of expanding renewable energy systems and expanding employment in clean energy.

Expiration is also consistent with the Legislature's intent expressed when it enacted this tax preference:

> The legislature intends to provide an incentive sufficient to promote installation of systems through 2021, at which point the legislature expects that the state's renewable energy industry will be capable of sustained growth and vitality without the cost recovery incentive. [2017 3rd sp.s. c 36 § 1.]

The 2017 legislation was the third round of taxpayer funds provided to support development of small scale solar photovoltaic projects in Washington, and the consensus at that time was that a final, limited amount of funding should be provided. The state now has more comprehensive mechanisms in place to encourage the development of renewable energy sources, most notably the Clean Energy Transformation Act of 2019.

However, Commerce believes that the statement that the preference "did not broaden low-income participation" is overly broad. The analysis itself shows that community solar participation included low-income customers. Commerce agrees with the Legislative Auditor's conclusion that, "If the Legislature

1

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wants to broaden low-income participation in the production and use of solar energy, it should consider other options."

The Legislature may also wish to consider policy options that focus more directly on the resilience benefit of distributed energy resources such as customer-sited solar photovoltaic systems. Distributed energy resources may reduce the impact of power outages and allow communities to recover more quickly from natural disasters.

- Reduced B&O rate for Printing and Publishing Newspapers. Provides reduced B&O rate to any business producing print and digital newspapers.

Commerce supports JLARC's recommendation for review by the Legislature without further comment.

- Targeted Urban Area Exemption. Provides a local property tax exemption for new industrial or manufacturing development.

Commerce supports the Legislative Auditor's recommendation to schedule the preference for review in 2028. This preference can support the state's goals to increase the manufacturing workforce and growth of state and local economies for those planning under the Growth Management Act (GMA); however, those counties not fully planning under the GMA won't benefit from the modified exemption.

The modification of the exemption to allow all Washington cities and towns in counties planning under the GMA to use the preference is a good change that aligns with the strength of the distribution of manufacturing jobs currently. That is, 80% of the state's manufacturing jobs are in urban counties with 60% of the total jobs in King and Snohomish counties alone. The 11 counties not planning under GMA have 4.4% of the state's manufacturing workforce, and if you exclude Cowlitz County which has a strong manufacturing workforce, that drops to 2.2%. This means the areas that need incentives to increase manufacturing won't get one with this proposal.

The modified tax preference can help:

  - The state meet its 10-year goal to double the state's manufacturing workforce under HB 1170 (2021).
  - Incentivize the creation or expansion of regional clusters of industrial/manufacturing uses for both new and existing industries.
  - Incentivize the use of underutilized and available sites in some rural counties, which has the potential to grow family wage jobs, as well as state and local tax revenues.

- Manufacturers' Deferral tax preference. Provides a tax deferral for manufacturers that build or expand facilities or purchase equipment.

Commerce supports the Legislative Auditor's recommendation to extend and modify the preference and notes that low take-up rate of this program may give the false impression that this benefit isn't needed.

2

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The opposite is true – such a program could greatly benefit Washington, especially given its regional-orientation that grows opportunities across the state. The program in its current form doesn't match the speed of business, and the following changes could improve Washington's competitive position:

- Temporary construction positions. Commerce supports JLARC's recommendation to modify this program to spur the creation of permanent, full-time manufacturing jobs rather than permanent and temporary as currently allowed.
- Extending the sunset. Businesses can no longer apply for deferral after January 1, 2026. Commerce recommends extending this sunset, with particular consideration for recently passed HB 1170, which sets the goal to double the number of manufacturing jobs in the state over the next 10 years.
- Construction impacts. JLARC's critical finding that recipients of this benefit report faster construction periods, while perhaps an unintended outcome, is another reason we are supportive of extending this program. Accelerating growth in manufacturing will require faster delivery of production spaces and this is one tool to do that.
- Expansion of access to maximize benefits. A critical challenge in take-up of this program is the 2 project per year cap and the first-in-time basis of application. We recommend removing the first-in-time basis for eligibility and increasing the number of allowable projects. Such changes could increase the deferral total from the 18% currently utilized if additional consideration were given to larger projects or a greater number of smaller-scale projects.

Thank you for the opportunity to provide formal comments on the above tax preference reviews. Please contact my Legislative Director, Jasmine Vasavada, at 360-480-6622 or Jasmine.Vasavada@commerce.wa.gov if you have any questions.

Sincerely,

Lisa J. Brown

Lisa Brown
Director

CC: Jasmine Vasavada, Legislative Director, Commerce
Marie Davis, Senior Policy Advisor, Commerce
Glenn Blackmon, Energy Policy Office Manager, Commerce
Buck Lucas, Management Analyst, Commerce

3

MORE ABOUT THIS REVIEW
Study questions

Click image to view PDF of proposed study questions.

Washington JLARC

PROPOSED STUDY QUESTIONS
Manufacturers Deferral

State of Washington Joint Legislative Audit and Review Committee

September 2020

JLARC to review a sales and use tax deferral for manufacturers that build or expand facilities

This preference is included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.

In 2015, the Legislature established a sales and use tax deferral on up to $10 million spent on new or expanded manufacturing facilities or equipment. The preference was passed as a pilot project for up to five manufacturers. In 2017, the preference was extended to two additional manufacturers per year: one each in Eastern and Western Washington.

Manufacturers that use the deferral must begin repaying the deferred tax in the fifth year after the project is complete and make equal repayments over a ten-year period. The 6.5% state portion of the deferred tax is deposited into an account managed by the State Board for Community and Technical Colleges to fund job training and apprenticeship programs in the manufacturing field. The deferral program expires for new participants January 1, 2026.

The preference is intended to create and retain jobs and provide funding for job training and apprenticeships

The Legislature's performance statement specifies its intent:

1. To create and retain jobs.
2. To provide funding to support job readiness training, professional development, or apprenticeship programs in manufacturing or production occupations.

The Legislature stated that if a review finds that each eligible investment project generated at least 20 full-time jobs, it intends for the Legislative Auditor to recommend extending the preference.

This study will address the following questions:

1. How many Washington manufacturers have used the preference? If the preference has not been used to its fullest extent, are there identifiable reasons why?
2. How many full-time jobs at the manufacturers have been generated by each eligible project? How many construction jobs were related to each eligible project?
3. How much funding for job training or apprenticeships has been provided through deferral repayments, and what future funding is estimated?
4. Accounting for repayment of deferred taxes, what are the estimated savings realized by beneficiaries?

Study Timeframe

Preliminary Report: July 2021 **Proposed Final Report:** December 2021

Study Team

Team Lead	Dana Lynn	(360) 786-5177	dana.lynn@leg.wa.gov
Research Analyst	Pete van Moorsel	(360) 786-5185	pete.vanmoorsel@leg.wa.gov
Project Coordinator	Eric Thomas	(360) 786-5182	eric.thomas@leg.wa.gov
Legislative Auditor	Keenan Konopaski	(360) 786-5187	keenan.konopaski@leg.wa.gov

JLARC Study Process

Study Mandate
Budget, legislation, committee direction

Proposed Study Questions

Legislative Auditor's Preliminary Report

For Tax Preferences:
- Citizen Commission meeting
- Public testimony
- Commission adopts comments

Legislative Auditor's Proposed Final Report
Agency response included

Final Report
Option to append committee comment

Committee votes to distribute completed audit

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