PROPOSED FINAL REPORT:
2022 TAX PREFERENCE PERFORMANCE REVIEWS

Property Tax Exemptions for Nonprofit Hospitals and Cancer Clinics

LEGISLATIVE AUDITOR'S 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, and the value of charity care exceeds tax savings.

November 2022

Executive Summary

Tax exemptions for nonprofit hospitals and nonprofit cancer clinics

Estimated Biennial Beneficiary Savings $259.4 Million
Tax Type Property Tax RCW 84.36.040(1)(e) RCW 84.36.046 **Applicable Statutes**

Washington has two property tax exemptions for nonprofit hospitals and nonprofit cancer clinics.

- Under RCW 84.36.040(1)(e), nonprofit hospitals are exempt from property tax on real and personal property. This preference predates statehood and has no expiration date.
- Under RCW 84.36.046, nonprofit cancer clinics are exempt from property tax on real and personal property if they are affiliated with a nonprofit hospital or formed by a municipal hospital corporation. This preference was enacted in 1997 and has no expiration date.

Real property generally includes hospital land, buildings, and other structures. Personal property includes medical equipment, hospital beds, and office equipment.

In 2019, the most recent year for which data is available, 94 beneficiaries saved $93.1 million in property taxes with the exemptions. JLARC staff estimate beneficiary savings of $259.4 million in the 2023-2025 biennium. Because of the state's budget-based property tax system, elimination of the preferences would result in a shift of tax burden between property owners, but would not increase revenues.

Inferred objective to encourage charity care and other community benefits

The Legislature did not specify public policy objectives for these preferences. JLARC staff infer the preferences are intended to support the provision of charity care and other community benefits. Charity care is medical care for which payment is not expected and patients are not billed. Other community benefits include the difference between a state's Medicaid payment rates and hospitals' costs for serving Medicaid patients, and providing education and research programs.

Beneficiaries provide charity care valued at more than three times the value of tax savings received through the preferences. Beneficiaries may also receive other preferential tax treatment at the state and federal level.

Objectives (inferred)	Results
Support the provision of charity care and other community benefits by nonprofit hospitals and cancer clinics.	**Met.** Beneficiaries provided over $336 million in charity care in 2019, accounting for more than 99% of all charity care statewide.

Recommendations

Legislative Auditor's Recommendation: Clarify

The Legislature should clarify the objectives of the preferences by including performance statements. Both preferences were enacted before the Legislature required a performance statement for new tax preferences. There are no explicitly stated public policy objectives for the tax preferences in statute.

If the tax preferences are intended to support certain outcomes, the Legislature should clarify its expectations by adding performance statements that clearly state the public policy objectives and metrics to determine if the objectives have been met.

You can find more information in Recommendations.

Commissioners' Recommendation

Endorse the Legislative Auditor recommendation with comment. The preference has no expiration date, but it should be continued with clarification. The Legislature should state public policy objectives and metrics so the intent and performance of this preference can be more easily measured in future reviews. The nonprofit hospitals and cancer centers provide essential charity care to vulnerable populations in our state, and metrics would assist them in demonstrating the value of the service they provide to our state and communities.

REVIEW DETAILS

1. Property tax exemptions for nonprofit hospitals and cancer clinics

Two preferences exempt nonprofit hospitals and cancer clinics from tax on real and personal property

This report reviews two property tax exemptions for health care facilities: one for nonprofit hospitals (RCW 84.36.040(1)(e)), and one for nonprofit cancer clinics (RCW 84.36.046). Both preferences exempt eligible beneficiaries from tax on real and personal property[1]. Nonprofit cancer clinics[2] are only eligible for the preference if they are affiliated with a nonprofit hospital or formed by a municipal hospital corporation. Both preferences are reviewed in this report. JLARC previously reviewed the nonprofit hospital property tax exemption in 2007. In May 2021, the Citizen Commission directed JLARC staff to review nonprofit hospitals along with nonprofit cancer clinics because of the formal relationship that often exists between these entities.

Private nonprofit hospitals, public hospitals, and cancer clinics are exempt from property tax

A property tax exemption for all hospitals existed in Washington prior to statehood. In 1973, the Legislature limited the preference to only nonprofit hospitals as defined in RCW 84.36.800.

Nonprofit hospitals provided over 94% of the state's available hospital beds in fiscal year 2019. There are two types of nonprofit hospitals: private nonprofit hospitals[3] and public hospitals[4]. The property tax exemption in RCW 84.36.040 treats these two types of hospitals differently:

- For private nonprofit hospitals, real and personal property used to provide hospital services is exempt from property taxation.
- For public hospitals, the exemption only applies to leased property. Property owned directly by the public hospital is already exempt from property taxes under a different preference (RCW 84.36.010).

Nonprofit cancer clinics affiliated with 501(c)(3) nonprofit hospitals or formed by a municipal hospital corporation are eligible for a tax exemption on real and personal property under RCW 84.36.046.

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[1]Real property generally includes hospital land, buildings, and other structures. Personal property includes medical equipment, hospital beds, and office equipment.

[2]Nonprofit cancer clinics are outpatient medical facilities that provide cancer prevention, detection, and treatment services.

[3]Private nonprofit hospitals are owned and operated by a domestic nonprofit corporation.

[4]Public hospitals are hospitals built or owned by a county authority or a public hospital district established by ballot referendum.

Preferences have no expiration date

The Legislature did not state public policy objectives for these preferences. Both were enacted before the Legislature required performance statements for tax preferences. JLARC staff infer a shared intent to support the provision of charity care and other community benefits. See Section 3 for more details.

The hospital property tax exemption predates statehood, and was later limited to nonprofit hospitals in 1973. The nonprofit cancer clinic preference took effect in 1997. Neither preference has an expiration date.

2. Beneficiaries saved $93.1 million in FY 2019

Beneficiaries estimated to save $93.1 million in FY 2019

The tax preferences exempt private nonprofit hospitals and cancer clinics from paying property tax on real and personal property[5]. Public hospitals are exempt from paying property tax on leased property.

Beneficiary savings estimates are based on data from the Centers for Medicare and Medicaid Services and the Department of Health

County assessors determine the value of property subject to taxation. State law[6] does not require county assessors to value exempt personal property or exempt publicly-owned real property every year. As a result, some hospitals have outdated property tax assessments.

In the absence of current property valuations from county assessors, JLARC staff used hospital-level data reported to the Centers for Medicare and Medicaid Services (CMS) and the Department of Health (DOH) to determine the value of each hospital's real and personal property:

- For private nonprofit hospitals and cancer clinics, staff used CMS's Medicare Cost Reports to determine the value of the property exempt from taxation.
- For public hospitals, staff used lease expenses from annual reports submitted to DOH.

Using local tax levy rates, JLARC staff determined the effective property tax rate for each beneficiary hospital. The beneficiary savings is the amount hospitals would have paid if their real and personal property were subject to property tax.

Collectively, 94 beneficiaries saved $93.1 million in fiscal year 2019, the most recent year for which data is available. Staff estimate beneficiary savings of $259.4 million in the 2023-2025 biennium. Because of the state's budget-based property tax system, elimination of the

[5]Real property generally includes hospital land, buildings, and other structures. Personal property includes medical equipment, hospital beds, and office equipment.

[6]RCW 84.36.005

preferences would result in a shift of tax burden between property owners, but would not increase revenues.

Exhibit 2.1: Beneficiaries estimated to save $259.4 million in the 2023-2025 biennium

Biennium	Fiscal Year	Estimated Beneficiary Savings
2017-2019	2019	$93,056,000
2019-2021	2020	$105,983,000
2019-2021	2021	$112,328,000
2021-2023	2022	$117,133,000
2021-2023	2023	$121,945,000
2023-2025	2024	$127,058,000
2023-2025	2025	$132,385,000
2023-2025 Biennium		$259,443,000

Source: JLARC staff analysis of 2019 data from the Centers for Medicare and Medicaid Services and county assessors. Future beneficiary savings use Department of Revenue data.

3. Inferred intent to support charity care and community benefits

The inferred intent of the preferences is to support the provision of charity care and other community benefits

Neither tax preference has a stated public policy objective.

Over time, the Legislature modified tax treatment and added charity care requirements for all hospitals

Hospitals were exempt from property taxation prior to statehood. At the time of the state's founding, hospitals typically served lower-income patients, while wealthier patients received treatment at home. Today, hospitals serve patients of all economic status.

IRS required provision of community benefits in 1969

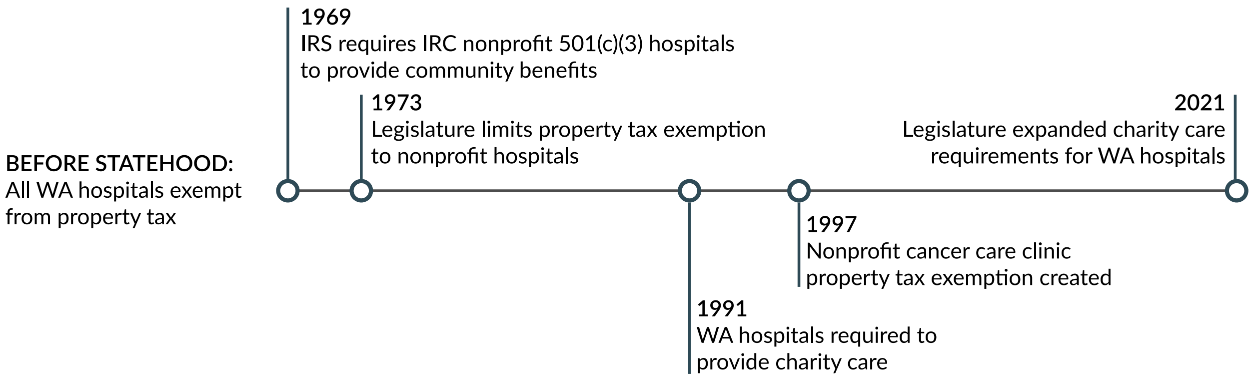
The Internal Revenue Service (IRS) adopted a "community benefit standard" for nonprofit hospitals in 1969. This requires each hospital to "demonstrate that it operates to promote the health of a class of persons that is broad enough to benefit the community."

In 1973, the Legislature restricted the hospital property tax preference to only nonprofit hospitals. In 1991, the Legislature required all hospitals (nonprofit and for profit) to provide charity care[7]. JLARC staff infer that these changes were intended to encourage beneficiaries to provide community benefits, including charity care.

Legislature established nonprofit cancer clinic preference in 1997

In 1997, the Legislature enacted the property tax exemption for nonprofit cancer clinics. Beneficiaries must be affiliated with a 501(c)(3) nonprofit hospital or formed by a municipal hospital corporation. Due to this requirement, JLARC staff infer that this preference is also intended to encourage those beneficiaries to provide community benefits and charity care.

Exhibit 3.1: The Legislature modified tax treatment and added requirements for hospitals



Source: JLARC staff analysis of statutory history.

Beneficiary hospitals provide different services than non-beneficiary hospitals

Beneficiaries are nonprofit hospitals that typically provide general and primary medical care. Non-beneficiaries include private, for-profit hospitals, which typically provide specific services. For example, non-beneficiaries include most of the state's psychiatric hospitals.

Non-beneficiary hospitals represent the minority of hospitals in the state and provided less than 6% of available beds in fiscal year 2019.

Exhibit 3.2: Washington's beneficiary and non-beneficiary hospitals provide different medical services

CMS Hospital Category	Beneficiaries	Non-beneficiaries
Children's hospitals	3	0
Long-term hospitals	1	1
Psychiatric hospitals	2	8

[7]Medical care for which payment is not expected and patients are not billed.

CMS Hospital Category	Beneficiaries	Non-beneficiaries
Rehabilitation hospitals	1	1
Critical access hospitals (CAH), or rural primary care hospitals (RCPH)	39	0
Short-term (general and specialty) hospitals	48	1
Total	**94**	**11**

Source: JLARC staff analysis of Centers for Medicare and Medicaid Services (CMS) Medicare Cost Report data.

Beneficiaries receive other preferential tax treatment

Beneficiaries receive other preferential treatment at the state and federal level. For example:

- Washington has a B&O tax preference for Medicare payments to public and nonprofit hospitals. The Department of Revenue estimates that beneficiaries saved $166 million with this preference in fiscal year 2020.
- At the federal level, nonprofit hospitals are exempt from corporate income tax, issue tax-exempt bonds, and receive tax-deductible charitable contributions.

These additional preferences for nonprofit hospitals may also contribute to encouraging beneficiaries' provision of charity care and community benefits.

4. Value of charity care exceeds tax savings

Beneficiaries provide charity care worth more than three times the value of their property tax savings

RCW 70.170.020 defines charity care as "medically necessary hospital health care rendered to indigent persons when third-party coverage, if any, has been exhausted, to the extent that the persons are unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payer, as determined by the department[8]." Consequently, charity care is medical care for which payment is not expected and patients are not billed.

JLARC staff reviewed data from the Centers for Medicare and Medicaid Services (CMS) and the Department of Health (DOH) and found that the value of charity care that beneficiaries provide is more than three times the amount of their tax savings.

Hospitals are required to provide charity care and community benefits

Nonprofit hospitals are required to provide charity care and other community benefits.

[8]Department of Health

- Washington required all hospitals, regardless of ownership type, to provide charity care to patients meeting certain income-based federal poverty[9] criteria beginning in 1991.
- The Internal Revenue Service (IRS) required nonprofit hospitals to provide community benefits, including charity care, in 1969.

The IRS does not define community benefits, but identifies multiple examples, including:

- Operating an emergency room open to all, regardless of ability to pay.
- Maintaining a board of directors drawn from the community.
- Providing hospital care for all patients able to pay, including those who pay their bills through public programs such as Medicaid and Medicare.
- Using surplus funds to improve facilities, equipment, and patient care.
- Using surplus funds to advance medical training, education, and research.

In 2019, 91% of beneficiaries provided charity care worth more than their tax savings

JLARC staff compared the value of beneficiary tax savings and the value of charity care provided in 2019, the most recent year for which data is available.

Hospital data reported to DOH and CMS indicates that beneficiary hospitals provided approximately $336 million in charity care in 2019. This accounts for 99.5% of charity care provided by all Washington hospitals. Of the 94 beneficiary hospitals and cancer clinics, 86 (91%) reported providing charity care worth more than their estimated beneficiary savings. For comparison, the savings for all beneficiaries in 2019 were $93.1 million.

New reporting requirement may provide more information about community benefits

JLARC staff reviewed data reported to DOH and CMS to try to estimate the value of community benefits beyond charity care. However, information in those reports was not sufficient to allow JLARC staff to determine the full value of all community benefits that beneficiaries provide.

While the full amount of community benefits could not be quantified, reports to DOH and CMS included insight into some areas, such as:

- Services to Medicaid patients. The Medicaid shortfall is the difference between a state's Medicaid payment rates and hospitals' costs for serving Medicaid patients. An August 2020 report by the Office of Financial Management found that after passage and implementation of the Affordable Care Act (including Medicaid expansion), the total

[9] Beginning June 2022, hospitals must meet charity care standards that depend upon the characteristics of the hospital. Larger hospitals must provide charity care for the full amount for patients at or under 300% of the federal poverty line, and discounted charity care for patients between 301% and 400% of the federal poverty line. Smaller hospitals must provide charity care for the full amount for patients at or under 200% of the federal poverty line, and discounted charity care for patients between 201% and 300% of the federal poverty line.

amount of charity care provided by Washington hospitals decreased, while the amount of the Medicaid shortfall increased. In fiscal year 2019, the estimated Medicaid shortfall among beneficiaries was $1.4 billion.

- Services to patients under other programs with income eligibility requirements, such as the Children's Health Insurance Program (CHIP). The estimated value of unreimbursed costs under these programs is $484,000.
- Medical training, education, and research programs. The total estimated cost of interns and research in fiscal year 2019 is $276 million.

The 2021 Legislature required most private nonprofit hospitals to report information about community benefits (E2SHB 1272). Beginning in 2023, hospitals will describe how their activities address community needs and identify outcome metrics. This future information may provide greater insight into the full value of community benefits outside of charity care.

5. Applicable statutes

RCW 84.36.040(1)(e), RCW 84.36.046

Nonprofit child day care centers, libraries, orphanages, homes or hospitals for the sick or infirm, outpatient dialysis facilities

RCW 84.36.040(1)(e)

(1) The real and personal property used by, and for the purposes of, the following nonprofit organizations is exempt from property taxation:

(a) Child day care centers as defined in subsection (4) of this section;

(b) Free public libraries;

(c) Orphanages and orphan asylums;

(d) Homes for the sick or infirm;

(e) Hospitals for the sick; and

(f) Outpatient dialysis facilities.

(2) The real and personal property leased to and used by a hospital for hospital purposes is exempt from property taxation if the hospital is established under chapter 36.62 RCW or is owned and operated by a public hospital district established under chapter 70.44 RCW.

(3) To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805, and the benefit of the exemption must inure to the user.

(4) For purposes of subsection (1) of this section, "child day care center" means a nonprofit organization that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours.

Nonprofit cancer clinic or center

RCW 84.36.046

(1) All real or personal property owned or used by a nonprofit organization, corporation, or association in connection with a nonprofit cancer clinic or center shall be exempt from taxation if all of the following conditions are met:

(a) The nonprofit cancer clinic or center must be comprised of or have been formed by an organization, corporation, or association qualified for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)), by a municipal hospital corporation, or by both;

(b) The nonprofit organization, corporation, or association operating the nonprofit clinic or center and applying for the exemption must be qualified for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)); and

(c) The property must be used primarily in connection with the prevention, detection, and treatment of cancer, except as provided in RCW 84.36.805.

(2)(a) As used in this section, "nonprofit cancer clinic or center" means a medical facility operated:

(i) By a nonprofit organization, corporation, or association associated with a nonprofit hospital or group of nonprofit hospitals, by a municipal hospital corporation, or by both; and

(ii) For the primary purpose of preventing and detecting cancer and treating cancer patients.

(b) For the purposes of this subsection, "primary purpose" means that at least fifty-one percent of the patients who receive treatment at the clinic or center do so because they have been diagnosed as having cancer. In carrying out its primary purpose, the nonprofit cancer clinic or center provides any combination of radiation therapy, chemotherapy, and ancillary services, directly related to the prevention, detection, and treatment of cancer. These ancillary services include, but are not limited to, patient screening, case management, counseling, and access to a tumor registry.

(3) The exemption also applies to administrative offices located within the nonprofit cancer clinic or center that are used exclusively in conjunction with the cancer treatment services provided by the nonprofit cancer clinic or center.

(4) If the real or personal property for which exemption is sought is leased, the benefit of the exemption must inure to the nonprofit cancer clinic or center.

RECOMMENDATIONS & RESPONSES

Legislative Auditor's Recommendation

Legislative Auditor's Recommendation: Clarify

The Legislature should clarify the objectives of the preferences by including performance statements. Both preferences were enacted before the Legislature required a performance statement for new tax preferences. There are no explicitly stated public policy objectives for the tax preferences in statute.

If the tax preferences are intended to support certain outcomes, the Legislature should clarify its expectations by adding performance statements that clearly state the public policy objectives and metrics to determine if the objectives have been met.

Legislation Required: Yes

Fiscal Impact: Depends on legislation.

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

November 4, 2022

The Honorable Senator Christine Rolfes
The Honorable Senator Lynda Wilson
The Honorable Senator Annette Cleveland
The Honorable Senator Ron Muzzall
The Honorable Senator Marko Liias
The Honorable Senator Curtis King
The Honorable Representative Mike Chapman
The Honorable Representative Bruce Chandler
The Honorable Representative Jake Fey
The Honorable Representative Andrew Barkis
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 Matt Boehnke
The Honorable Representative Eileen Cody
The Honorable Representative Joe Schmick

Re: 2022 Tax Preference Reviews

Dear Senators and Representatives:

I am pleased to be forwarding 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 the four caucuses and the Governor's office and represent a broad range of ideologies and professional backgrounds. Members include a retired tax attorney and CPA, the president of the Edmonds Education Association, a University of Washington public policy professor, a retired K-12 teacher and myself, the Chief Economist at Avista. Notably, reviews this year included:

Five Legislative Auditor recommendations that require legislative action:

- A review of a preference for **Commute Trip Reduction**, in which the Legislative Auditor concluded that "*More Washingtonians are using commute alternatives. However, fewer employers are requesting the tax credit, and the credit likely has limited influence on the amount of financial incentives employers provide.*"
- A review of three preferences for **Food Processors**, in which the Legislative Auditor concluded that *"Dairy and fruit and vegetable beneficiaries had job and wage increases that exceeded industry and state averages. Seafood beneficiaries saw a decline in both. The preferences reduced the effective tax rates, but rates remain higher than neighboring states."*
- A review of **Property Tax Exemptions for Nonprofit Hospitals and Cancer Clinics**, in which the Legislative Auditor concluded that *"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, and the value of charity care exceeds tax savings."

Two Legislative Auditor recommendations that do not require legislative action:

- A review of a preference for Food Possessors for **Dairy products used as an ingredient or component to create other dairy products**, in which the Legislative Auditor concluded that *"The preference was enacted in 2013 to encourage development of an infant formula production facility in Sunnyside. Industry representatives note the activity for which it was intended did not occur."*
- A review of a **Historic Automobile Sales and Use Tax Deferral**, in which the Legislative Auditor concluded that *"The tax deferral meets the public policy objective of improving the fiscal stability of its one beneficiary. This may have improved economic vitality, but other local financial incentives likely had a larger influence."*

The Commission endorses all of the Legislative Auditor's recommendations. The full text of the Commission's recommendations is attached and will be added to JLARC's proposed final report in November. 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, Chair
Citizen Commission for Performance Measurement of Tax Preferences

Citizen Commission for Performance Measurement of Tax Preferences

Commissioner Comments Adopted on October 18, 2022

1. Commute Trip Reduction (Business and Occupation Tax, Public Utility Tax)

Legislative Auditor Recommendation: Continue and modify the preference

The Legislature should continue and modify the preference. Although more Washingtonians are using commute alternatives, the tax credit likely has limited influence on the amount of incentives that employers provide and on employee use of commute alternatives. Modifications to the credit might include:

- Amending the preference to further reduce single-occupant vehicle travel. The Legislature may consider options such as increasing the benefit for smaller employers whose use of the preference has declined, targeting new employers, or targeting employers outside of King County. The Legislature should consult with the Department of Transportation when developing amendments. The Department's expertise in administering the Commute Trip Reduction program could help inform any modifications.
- Alternatively, the Legislature could recategorize the preference as one intended to provide tax relief to employers providing financial incentives for commute alternatives. If the Legislature chooses to do so, it should consider changing its objective from increasing use of commute alternatives to one that focuses on increasing the number of businesses providing incentives to their employees.

Commission Comment	Rationale for comment
Endorse Legislative Auditor recommendation with comment.	Increasing commute alternatives, decreasing traffic congestion, and decreasing energy use and air pollution are becoming more important to our state for quality of life and sustainability. Traffic congestion and energy use is not solely a Puget Sound corridor issue; Eastern Washington and rural communities can all benefit from reducing single-occupant travel.

2. Food Processors (Business and Occupation Tax)

Legislative Auditor Recommendation: B&O preferences for dairy processors: Continue and clarify

The Legislature should continue the B&O tax preferences for dairy product processors because they are meeting the objectives of providing tax relief and creating and retaining industry jobs. To facilitate future reviews, the Legislature should clarify its expectations for job and wage growth and determine the level of tax relief needed to meet those expectations.

Commission Comment	Rationale for comment
Endorse Legislative Auditor recommendation without comment.	

Prepared by JLARC Staff October 2022 Page **1**

Citizen Commission for Performance Measurement of Tax Preferences

Commissioner Comments Adopted on October 18, 2022

2. Food Processors (Business and Occupation Tax)

Legislative Auditor Recommendation: B&O preference for dairy products used as an ingredient or component to create other dairy products: Allow to expire

The Legislature should allow the preference for dairy products used as an ingredient or component to create other dairy products to expire as scheduled, June 30, 2023. The infant formula production in Sunnyside that the preference was intended for in 2013 did not occur.

Commission Comment	Rationale for comment
Endorse Legislative Auditor recommendation without comment.	

2. Food Processors (Business and Occupation Tax)

Legislative Auditor Recommendation: B&O preferences for fruit & vegetable processors: Continue and clarify

The Legislature should continue the B&O tax preferences for fruit & vegetable processors because they are meeting the objectives of providing tax relief and creating and retaining industry jobs. To facilitate future reviews, the Legislature should clarify its expectations for job and wage growth and determine the level of tax relief needed to meet those expectations.

Commission Comment	Rationale for comment
Endorse Legislative Auditor recommendation with comment.	Public testimony highlighted the importance of this tax preference for our state's wine industry, which has shown solid industry growth in jobs, wages, and tourism in the past decade. More generally, food processors face higher tax burdens in Washington compared to neighboring states. This preference helps level the playing field for all kinds of food processors, allowing them to remain competitive and/or grow.

Prepared by JLARC Staff October 2022 Page **2**

Citizen Commission for Performance Measurement of Tax Preferences

Commissioner Comments Adopted on October 18, 2022

2. Food Processors (Business and Occupation Tax)

Legislative Auditor Recommendation: B&O tax preferences for seafood processors: Review and clarify

The Legislature should review the B&O tax preferences for seafood product processors because they are only meeting one of two objectives. While the preferences provide tax relief, beneficiary jobs in Washington have declined and their employee wages have decreased. It is unclear why more businesses are not using the preference or what the Legislature's expectations are for the industry's jobs and wages.

Commission Comment	Rationale for comment
Endorse Legislative Auditor recommendation without comment.	

3. Historic Automobile Museums Sales and Use Tax Deferral (Sales & Use tax)

Legislative Auditor Recommendation: Continue

The Legislature should continue the preference until the current deferral is repaid in 2032. After that, the tax preference will no longer be necessary in statute.

Commission Comment	Rationale for comment
Endorse Legislative Auditor recommendation without comment.	

Prepared by JLARC Staff October 2022 Page 3

Citizen Commission for Performance Measurement of Tax Preferences

Commissioner Comments Adopted on October 18, 2022

4. Property Tax Exemptions for Nonprofit Hospitals and Cancer Clinics (Property tax)

Legislative Auditor Recommendation: Clarify

The Legislature should clarify the objectives of the preferences by including performance statements. Both preferences were enacted before the Legislature required a performance statement for new tax preferences. There are no explicitly stated public policy objectives for the tax preferences in statute.

If the tax preferences are intended to support certain outcomes, the Legislature should clarify its expectations by adding performance statements that clearly state the public policy objectives and metrics to determine if the objectives have been met.

Commission Comment	Rationale for comment
Endorse Legislative Auditor recommendation with comment.	The preference has no expiration date, but it should be continued with clarification. The legislature should state public policy objectives and metrics so the intent and performance of this preference can be more easily measured in future reviews. The non-profit hospitals and cancer centers provide essential charity care to vulnerable populations in our state, and metrics would assist them in demonstrating the value of the service they provide to our state and communities.

Prepared by JLARC Staff October 2022 Page 4

Commissioners' Recommendation

The Commission endorses the Legislative Auditor recommendation with comment. The preference has no expiration date, but it should be continued with clarification. The legislature should state public policy objectives and metrics so the intent and performance of this preference can be more easily measured in future reviews. The non-profit hospitals and cancer centers provide essential charity care to vulnerable populations in our state, and metrics would assist them in demonstrating the value of the service they provide to our state and communities.

DOR & OFM Response

STATE OF WASHINGTON

August 25, 2022

Keenan Konopaski, Legislative Auditor
Joint Legislative Audit and Review Committee
PO Box 40910
Olympia, WA 98504-0910

Dear Mr. Konopaski:

The Office of Financial Management and the Washington State Department of Revenue have reviewed the Joint Legislative Audit and Review Committee's (JLARC) preliminary report on the 2022 tax preference performance reviews. This year's report includes seven recommendations in four separate tax reports provided on preferences for commute trip reduction, food processing, nonprofit hospitals and cancer clinics, and historic auto museums.

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 state tax preferences is critical to ensure that the state of Washington maintains a fair and equitable tax system.

While we have no specific comments on the 2022 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 review this material and the recommendations made by JLARC and provide comments.

Sincerely,

Vikki Smith

David Schumacher, Director
Office of Financial Management

Vikki Smith, Director
Department of Revenue

DOH Response

The Department of Health (DOH) was given an opportunity to comment on this report, but did not respond.

MORE ABOUT THIS REVIEW

Study questions

Click image to view PDF of proposed study questions.

Washington JLARC

PROPOSED STUDY QUESTIONS

Nonprofit Cancer Clinics and Centers

State of Washington Joint Legislative Audit and Review Committee

Updated September 2021

JLARC will review a property tax exemption for nonprofit cancer clinics and centers

The 2006 Legislature directed JLARC staff to conduct performance audits of tax preferences. These preferences are included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.

The 1997 Legislature passed a property tax exemption for all real or personal property owned or used by a nonprofit cancer clinic or center. These facilities provide prevention, detection, and treatment services for cancer patients in an outpatient setting.

At the time the preference was enacted, one cancer clinic was eligible. Since then, additional nonprofit cancer clinics and centers have qualified.

Inferred intent is to provide nonprofit cancer clinics and centers with the same property tax treatment as nonprofit hospitals to support community benefits

Statute provides a property tax exemption for nonprofit hospitals, with an inferred intent of supporting community benefits, such as charity care (medical care for which payment is not expected and patients are not billed). Nonprofit cancer clinics or centers are not considered hospitals under state law and are not eligible for the same exemption.

This preference provides a property tax exemption for nonprofit cancer clinics or centers that is similar to the exemption provided to nonprofit hospitals. Beneficiaries must be recognized 501(c)(3) nonprofit organizations or be formed by a municipal hospital corporation. The exempt property must be used primarily for cancer prevention, detection, and treatment.

This study will address the following questions:

1. To what extent has the preference been used, what are the beneficiary savings, and how does this compare to the anticipated usage?
2. What community benefits do beneficiaries provide?
3. How does the value of beneficiaries' charity care and other community benefits compare to the tax savings?

Study Timeframe

Preliminary Report: July 2022 **Proposed Final Report:** December 2022

Study Team

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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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Washington JLARC

PROPOSED STUDY QUESTIONS
Nonprofit Hospitals

State of Washington Joint Legislative Audit and Review Committee — September 2021

JLARC will review a property tax exemption for nonprofit hospitals

The 2006 Legislature directed JLARC staff to conduct performance audits of tax preferences. These preferences are included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.

Washington adopted a property tax exemption for "benevolent, charitable, literary, or scientific" institutions at the state's founding in 1889. In 1973, the Legislature limited the exemption to nonprofit hospitals.

JLARC last reviewed this property tax exemption in 2007.

Inferred intent is to encourage nonprofit hospitals to provide community benefits, including charity care

Statute does not specify an intent for this preference.

Nonprofit hospitals may be eligible for other tax exemptions, including from federal income taxes. To receive federal exemptions, nonprofit hospitals are required to provide community benefits, such as charity care. Charity care is the provision of medical services for which payment is not expected and patients are not billed.

The Legislature required both nonprofit and for-profit hospitals to provide charity care in 1989. While provision of charity care is not required to claim the property tax exemption, JLARC staff infer that the preference's intent is to encourage hospitals to provide community benefits, including charity care.

This study will address the following questions:

1. To what extent has the preference been used and what are the beneficiary savings?
2. What community benefits do beneficiaries provide?
3. Is there information that allows for a comparison of community benefits between beneficiary and non-beneficiary hospitals?
4. How does the value of beneficiaries' charity care compare to the tax savings? How does this compare to charity care provided by hospitals that do not benefit from the tax preference?

Study Timeframe

Preliminary Report: July 2022 **Proposed Final Report:** December 2022

Study Team

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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

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