

Citizen Commission for Performance Measurement of Tax Preferences

Draft Consolidated Commissioner Comments on 2017 Preferences

Chair's Note:

For each reviewed preference I have tried to consolidate comments into a single line titled "Chair's Reconciliation Proposal." As was discussed in our last meeting, the goal is for the voting commissioners to speak with "one voice" on each of the reviewed preferences. However, depending on the variation in comments, reaching that single voice can be difficult. Therefore, my reconciliation proposal is color coded to indicate the degree of unity I perceive across commissioner recommendations. Green means I perceive little or no deviation in commissioner recommendations. Yellow means I perceive one to two commissioners have expressed a moderate deviation from the majority, but the differences are not insurmountable to reaching a one voice opinion. Red means I perceive that one to two commissioners have expressed a significant deviation from the majority, and reaching a one voice opinion will be impossible without significant compromises. The table below is a summary of the Green, Yellow, and Red preferences:

Color	Preferences
Green	Alternative Fuel Vehicles; Automotive Adaptive Equipment; Coal Fired Power Plant Preferences; Cogeneration Facilities and Renewable Resources; Electric Vehicle Batteries and Charging Stations; Sales of Manufactured and Mobile Home Communities; Wood Biomass Fuel Manufacturing
Yellow	Electricity for Electrolytic Processors; State-Chartered Credit Unions; Vessel Deconstruction
Red	Electric Power Sold in Rural Areas; International Banking Facilities; Standard Financial Information

Please note that where a comment is part of the reconciliation proposal, I have included the initials of commissioners whose comments were used (in part or full) for the proposed reconciliation comment.

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Name	Possible Comment	Rationale for comment
1. Alternative Fuel Vehicles (Sales and Use Tax)		
<p>Legislative Auditor recommendation: Review</p> <p>The Legislature should review the sales and use tax preference for clean alternative fuel vehicles in the 2019 legislative session if the number of qualifying vehicles titled in Washington has not reached 7,500.</p>		
Chair's Reconciliation Proposal	Endorse with comment.	The Legislature should review this preference and revisit its expectations for the number of qualifying vehicles. (JM)
Grant Forsyth	Endorse the JLARC recommendation without comments.	
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Endorse without comment.	
Justin Marlowe	Endorse with comment.	I concur with the staff recommendation. The Legislature should review this preference and revisit its expectations for the number of qualifying vehicles.
2. Automotive Adaptive Equipment for Veterans and Service Members with Disabilities (Sales and Use Tax)		
<p>Legislative Auditor recommendation: Clarify</p> <p>The Legislature should clarify the sales and use tax exemption for veterans and service members with disabilities who purchase adaptive automotive equipment because the estimated beneficiary savings have exceeded the 2013 fiscal note estimate for the past three fiscal years.</p>		
Chair's Reconciliation Proposal	Endorse with comment.	The commission accepts JLARC's clarify recommendation with the understanding that the tax preference should be continued. The clarification should be narrowly focused on updating the fiscal note estimate. JLARC analysis indicates the preference's objectives are being

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		met and the benefits are being received by the intended recipients. Because beneficiary savings consistently exceeds the fiscal note estimate, this reinforces the need to continue this tax preference. The higher than expected beneficiary savings reflects the significant increase in the number of U.S. veterans. (ANM, GF, RB)
Grant Forsyth	Endorse the JLARC recommendation with comments.	I accept “clarify” with the understanding that the commission recommends retaining the tax preference.
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Do not endorse. Continue.	While the beneficiary savings consistently exceeds the fiscal note estimate, this reinforces the need to continue this tax preference. Clearly our state has veterans and service members who have been severely injured and are in need of Automotive Adaptive Equipment to be self-sufficient. Given that these individuals with disabilities are three times more likely to be at or below the national poverty level, they often cannot afford the sales tax on the purchase, installation, and repair of the AAE. To remove the competitive disadvantage for Washington businesses and to allow greater opportunity for our veterans and service members with disabilities to be self-sufficient, the legislature should extend this preference past the July 1, 2018 expiration date.
Ron Bueing	Do not endorse. Continue.	The preference has met its stated objectives. Although the number of veterans requiring this assistance has unfortunately increased significantly beyond projections, all analysis by JLARC shows that the laudatory objectives of this preference are being achieved. The legislature required a five year review in order to examine the cost in relation to the initial estimates – that review will go on as intended. However, JLARC analysis indicates the objectives are being met and the sole financial incentives are being received by the intended recipients, service veterans with disabilities. The preference should be continued and the legislature will be well informed of the fiscal costs based on this analysis.

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Justin Marlowe	Endorse with comment.	This preference appears to have met two of its main policy goals: 1) provide financial relief for severely injured veterans and service members, and 2) offset a competitive disadvantage for Washington’s businesses. The Legislature ought to continue to support this preference. However, I concur with staff that the Legislature ought to revisit this preference and establish a much clearer definition of “reasonable” revenue impact going forward.
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3. [Coal-Fired Power Plant Preferences \(Multiple Taxes\)](#)

Legislative Auditor recommendation: Continue

The Legislature should continue the three tax preferences until the coal-fired boilers at the plant are decommissioned. The tax preferences are meeting the stated public policy objectives of helping Washington’s only coal-fired power plant to update air pollution control equipment/facilities, abate pollution, and play an economic role in its community through 2025.

Chair’s Reconciliation Proposal	Endorse without comment.	
Grant Forsyth	Endorse the JLARC recommendation without comments.	
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Endorse without comment.	
Justin Marlowe	Endorse without comment.	

4. [Cogeneration Facilities and Renewable Resources \(Public Utility Tax\)](#)

Legislative Auditor recommendation: Terminate

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The Legislature should add an expiration date to terminate this preference because it is not currently being used and there will be no remaining eligible utilities within a few years.		
Chair's Reconciliation Proposal	Endorse without comment.	
Grant Forsyth	Endorse the JLARC recommendation without comments.	
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Endorse without comment.	
Justin Marlowe	Endorse without comment.	
5. Electric Power Sold in Rural Areas (Public Utility Tax)		
<p>Legislative Auditor recommendation: Continue</p> <p>The Legislature should continue the preference because it is meeting its inferred objective of providing tax relief to rural utilities with higher electricity costs and their customers. In continuing the preference, the Legislature should consider stating the public policy objective in statute.</p>		
Chair's Reconciliation Proposal	Do not endorse. Review and clarify	Although the preference is meeting its inferred objective, the estimated savings to the individual tax payer, at an estimated \$5.39 per year, is de minimus. Therefore the legislature should review and clarify if such small savings are material enough to justify the current tax preference. (ANM)
Grant Forsyth	Concur with JLARC recommendation without comments.	

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Diane Lourdes Dick	Endorse without comment.	
Ron Bueing	Endorse without comment.	
Andi Nofziger-Meadows	Do not endorse. Terminate.	While the preference is meeting its inferred objective of providing tax relief to rural utilities and their customers in areas where electricity rates exceed the statewide average, the savings to the individual tax payer at an estimated \$5.39 per year is de minimus. The small savings to individual consumers does not warrant the loss of tax resources to the State of Washington and all its citizens.
Justin Marlowe	Endorse with comment.	I concur with the staff recommendation to continue, but would emphasize that the Legislature should consider stating the public policy objective in statute. This preference is clearly providing tax relief to rural utilities and their customers, but it advances other objectives – economic development, supporting livable wage jobs in rural communities, etc. – that are also noteworthy but less clearly defined.

6. [Electric Vehicle Batteries and Charging Stations \(Multiple Taxes\)](#)

Legislative Auditor recommendation: Clarify

Before the January 1, 2020, expiration date, the Legislature should:

- Review and clarify the electric vehicle battery tax preference to determine if the use matches legislative expectations for the preference.
- Review and clarify the electric vehicle charging station components, construction, installation, and repair tax preference to set a target for the number of new EV charging stations.

Clarify the leasehold excise tax preference for private use of publicly owned property for electric vehicle infrastructure to require direct beneficiaries to report their use of the preference.

Chair's Reconciliation Proposal	Endorse with comment.	The legislature should set clearer targets to measure the impact of this preference. Testimony surrounding this preference suggested it is achieving its policy goals of building out electric vehicle (EV) infrastructure and encouraging consumers to transition to EVs. At the same time, the evidence suggests the preference's impact is concentrated in a few geographic areas within the state. This is an important finding because the
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		continued growth of EVs will require more widely dispersed charging stations. Finally, because public and private entities are showing interest in providing charging stations, reporting standards for both entities will be important in evaluating this preference in the future. (GF, JM)
Grant Forsyth	Endorse the JLARC recommendation with comments.	
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Endorse without comment.	
Justin Marlowe	Endorse with comment.	I concur that the Legislature ought to set much clearer targets to measure the impact of this preference. Testimony surrounding this preference suggested it is achieving its policy goals of building out electric vehicle infrastructure and encouraging consumers to transition to electric vehicles. At the same time, there's evidence that success is concentrated in a few geographic areas within the state. If this is a statewide policy goal, the Legislature ought to consider redefining the goals for this preference with respect to geographic distribution and reach of electric vehicle charging stations.

7. [Electricity for Electrolytic Processors \(Public Utility Tax\)](#)

Legislative Auditor recommendation: Clarify
 The Legislature should clarify the tax preference because the law no longer includes public policy objectives and the metric for jobs may not reflect current employment levels in the industry.

Chair's Reconciliation Proposal	Do not endorse. Continue.	The tax preference is consistent with other similar exemptions where electricity is a prime raw material component in the processing. It is also clearly meeting inferred objectives, which are based on fairly recent legislative pronouncements. In addition, testimony surrounding this
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		preference suggested the metric for jobs does, in fact, reflect current employment levels and is an adequate indicator of this preference’s policy success. (DLD, GF, JM)
Grant Forsyth	Endorse the JLARC recommendation with comments.	Industry testimony indicates that this preference is still being used. This testimony argued that this preference reflects the use of electricity as a primary rather than a secondary input. “Primary” in this context means electricity is a raw material in the same way oil is a raw material for the production of gasoline. Therefore, this raises the question if employment is really an appropriate metric for evaluating this preference.
Diane Lourdes Dick	Do not endorse. Continue.	The tax preference is consistent with other similar exemptions where electricity is a prime raw material component in the processing. It is also clearly meeting inferred objectives, which are based on fairly recent legislative pronouncements.
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Endorse without comment.	
Justin Marlowe	Do not endorse. Continue	Testimony surrounding this preference suggested the metric for jobs does, in fact, reflect current employment levels and is an adequate indicator of this preference’s policy success.
<p>8. International Banking Facilities (B&O Tax)</p> <p>Legislative Auditor recommendation: Review and clarify</p> <p>The Legislature should review and clarify the B&O tax exemption for international banking facilities (IBFs) to provide an explicit public policy objective and metrics to determine if the objective has been achieved. The Legislature may also want to review the relevance of the preference given changes to Washington’s apportionment laws.</p>		
Chair’s Reconciliation Proposal	Endorse without comment.	

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Grant Forsyth	Endorse the JLARC recommendation without comments.	
Diane Lourdes Dick	Endorse without comment.	
Ron Bueing	Endorse without comment.	
Andi Nofziger-Meadows	Do not endorse. Terminate.	There is no sufficient financial hardship for international banking facilities to justify taking tax resources from the State of Washington and its citizens through continuing the tax preference.
Justin Marlowe	Endorse without comment.	
9. Sales of Manufactured and Mobile Home Communities (Real Estate Excise Tax)		
<p>Legislative Auditor recommendation: Continue</p> <p>The Legislature should continue the real estate excise tax exemption on qualifying sales of manufactured and mobile home communities because it is meeting its stated public policy objective of facilitating their preservation. However, such communities continue to be sold and closed across the state. In extending the preference, the Legislature should consider adding a performance statement creating metrics for future reviews.</p>		
Chair's Reconciliation Proposal	Endorse without comment.	
Grant Forsyth	Endorse the JLARC recommendation without comments.	
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Endorse without comment.	

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Justin Marlowe	Endorse without comment.	
10. Standard Financial Information (Sales and Use Tax)		
<p>Legislative Auditor recommendation: Clarify</p> <p>The Legislature should clarify the sales and use tax exemption for standard financial information because, while the preference is meeting the stated objective of exempting sales of standard financial information, it is unclear if the actual fiscal impact reasonably conforms to the 2013 fiscal estimate.</p>		
Chair's Reconciliation Proposal	Endorse with comment.	Many enterprises, not just international investment management companies (IIMCs), use some form of digital products as described by Washington's Department of Revenue. Therefore it is unclear why the potential beneficiaries of this preference are so narrowly defined. The legislature should clarify the rationale for so narrowly restricting this preference to IIMCs.
Grant Forsyth	Endorse the JLARC recommendation without comments.	
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Do not endorse. Terminate.	The American investment industry and international investment management companies are not experiencing financial hardships. The State of Washington should not be giving away state resources in the form of tax dollars to support this industry.
Ron Bueing	Do not endorse. Continue.	Given that the preference is meeting its stated objectives, recommend continuation.
Justin Marlowe	Endorse with comment.	This Legislature absolutely should clarify the expected and actual revenue impact. Perhaps more important, the Legislature should clarify Dept. of Revenue's interpretation of "qualifying purchases" of standard financial information, particularly intra-firm purchases, and make certain the implementation of this preference is consistent with that DOR interpretation. Much of the testimony surrounding this preference

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		suggested confusion and different interpretations in how state sales and use tax is applied generally to standard financial information.
11. State-Chartered Credit Unions (B&O Tax)		
Legislative Auditor recommendation: Clarify		
The Legislature should clarify the B&O tax exemption for state-chartered credit unions to identify public policy objectives because none are stated in statute. As part of the clarification, the Legislature should provide a performance statement that provides targets and metrics to measure whether the public policy objectives have been achieved.		
Chair's Reconciliation Proposal	Endorse with comment.	The Legislature should define the policy objectives for this preference. Representatives from the credit union (CU) industry shared compelling testimony that showed this preference allows many CUs to remain state-chartered, and it preserves their non-profit character. However, both of those goals are derived from the industry's interpretation of its state authorizing legislation, and not from legislation that authorized this preference. Because of that ambiguity, staff inferred a third policy objective – serving underserved populations – that the industry supports but does not consider one of the main goals for this preference. It's in both the Legislature's and industry's interest to clarify the public policy objectives and performance metrics for this preference going forward. (JM)
Grant Forsyth	Endorse the JLARC recommendation with comments.	Industry testimony regards the JLARC recommendation as unnecessary based on the Washington Credit Union Act. However, in determining legislative intent, JLARC staff reached their conclusion using different sources. These differing conclusions suggest that the legislature still needs to clarify which sources best embodies legislative intent with regards to state taxation. Such a clarification would make it easier to evaluate this preference in the future.
Diane Lourdes Dick	Endorse with comment.	The Northwest Credit Union Association made a compelling case that the inferred objectives of the preference are (1) support of the state credit union charter as an alternative to the federal credit union charter, and (2) support for credit unions as a non-profit cooperative alternative to for-

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		profit financial institutions. Nonetheless, some clarification would be helpful, particularly to the extent a performance statement is provided.
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Do not endorse. Continue.	Given the status and requirements of federally chartered credit unions, the provision provides similar tax treatment for state chartered credit unions. To protect the ongoing viability of state chartered credit unions, the preference should be continued.
Justin Marlowe	Endorse with comment.	I concur with staff that the Legislature should define the policy objectives for this preference. Representatives from the credit union industry shared compelling testimony that showed this preference allows many credit unions to remain state-chartered, and it preserves credit unions' non-profit character. However, both of those goals are derived from the industry's interpretation of its state authorizing legislation, and not from legislation that authorized this preference. Because of that ambiguity staff inferred a third policy objective - serve underserved populations - that the industry supports but does not consider one of the main goals for this preference. It's in both the Legislature's and industry's interest to clarify the public policy objectives and performance metrics for this preference going forward.

12. [Vessel Deconstruction \(Sales and Use Tax\)](#)

Legislative Auditor recommendation: Review and Clarify

The Legislature should review and clarify the preference because:

- The average cost is lower, but it is unclear if it leads to an increase in vessel removals.
- Other factors, such as available DVRP funds, removal costs, and size and condition of the vessel, may impact vessel removals as much or more than reduced deconstruction costs.

When reviewing the preference, the Legislature may want to consider:

- Adopting a metric other than the number of vessels removed to measure if the public policy objective has been achieved.

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<ul style="list-style-type: none"> Re-categorizing the purpose of the preference as intended to provide tax relief rather than intended to induce a certain behavior. 		
<p>Chair's Reconciliation Proposal</p>	<p>Do not endorse. Clarify only.</p>	<p>The commission accepts JLARC's clarify recommendation with the understanding that the tax preference should be continued. Testimony from the Department of Natural Resources (DNR) demonstrated this preference has a beneficial impact on managing problem vessels by increasing the DNR's ability to purchase more deconstruction services. As result, the clarification relates to the preference's current evaluation metric, which is a count of vessels. This metric is insufficient for capturing the total benefits of vessel removal. For example, the DNR indicated reduced environmental and safety hazards are important benefits from removing vessels. These benefits can be significant even if only one large vessel is removed in a given year. Therefore we agree with JLARC's recommendation to clarify the objective to focus on reducing the cost of removing vessels, rather than counting the number of vessels removed. (DLD, GF, RB)</p>
<p>Grant Forsyth</p>	<p>Endorse the JLARC recommendation with comments.</p>	<p>DNR testimony indicates this preference has had a beneficial impact on the removal of problem vessels. Testimony indicated that environmental and safety issues are important considerations when removing problem vessels. This suggests that the preference's evaluation should revolve around avoided environmental and safety events.</p>
<p>Diane Lourdes Dick</p>	<p>Endorse with comment.</p>	<p>Testimony from the Department of Natural Resources evidences that the preference increases the department's ability to purchase more deconstruction services for derelict vessels. Currently, the legislation includes a metric of measuring the number of vessels removed, which can vary from year to year depending on the size and complexity of the vessels removed and the budget authorized for the department. Accordingly, I agree with the Legislative Auditor's recommendation to clarify the objective to focus on reducing the cost of removing vessels, rather than counting the number of vessels removed.</p>

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Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Do not endorse. Continue.	Consequences of the failure to continue the preference would be to reduce the amount of funds available for vessel deconstruction, a valuable service. As it appears that most vessel deconstruction is funded with public dollars, the benefit appears to provide for efficient use state and local resources.
Justin Marlowe	Endorse without comment.	
<p>13. Wood Biomass Fuel Manufacturing (B&O Tax)</p> <p>Legislative Auditor recommendation: Terminate</p> <p>The Legislature should terminate the tax preference because the preference is not being used and other tax preferences directed at wood biomass fuel manufacturing are no longer in effect.</p> <p>The preference was initially enacted in 2003 with other wood biomass fuel tax preferences. While this package of preferences was in effect, none appears to have been claimed. Because only one tax preference directed toward manufacturers of wood biomass fuel remains, it may not provide sufficient incentive to meet the inferred public policy objectives.</p>		
Chair's Reconciliation Proposal	Endorse without comment.	
Grant Forsyth	Endorse the JLARC recommendation without comment.	
Diane Lourdes Dick	Endorse without comment.	
Andi Nofziger-Meadows	Endorse without comment.	
Ron Bueing	Endorse without comment.	

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Justin Marlowe	Endorse without comment.	
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