

State of Washington
Joint Legislative Audit & Review Committee (JLARC)

2018 Expedited Tax Preferences

May 2018

This report contains information on 47 tax preferences selected for expedited review by the Citizen Commission for Performance Measurement of Tax Preferences. The source of the information is Department of Revenue Tax Exemption Reports. Expedited Reviews have not undergone a performance evaluation by JLARC staff and do not include a Legislative Auditor recommendation.

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Joint Legislative Audit and Review Committee

106 11th Ave SW

PO Box 40910

Olympia, WA 98504

(360) 786-5171

(360) 786-5180 Fax

www.jlarc.leg.wa.gov

Committee Members

Senators

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Bob Hasegawa

Mark Miloscia

Mark Mullet, *Assistant Secretary*

Rebecca Saldaña

Shelly Short

Lynda Wilson

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

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Agricultural Fairs (B&O Tax)

Current statute: RCW 82.04.335

Department of Revenue 2016 Tax Exemption Report (p. 82):

Description: Organizations that conduct agricultural fairs are exempt from B&O tax if no part of earnings inures to any stockholder or member of the association.

Income from admissions to specific exhibits, entertainment or other business activities conducted with the fairgrounds by third party concessionaires is taxable.

Purpose: To support agricultural fairs by reducing the costs to run the fairs.

Category/Year Enacted: Agriculture. 1965

Primary Beneficiaries: County or community fairs or youth livestock shows

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.585	\$0.591	\$0.597	\$0.603
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Agricultural Products (B&O Tax)

Current statutes: RCW 82.04.330; 82.04.410

JLARC 2008 Tax Preference Reviews (p. 131):

Description: Provides a business and occupation tax exemption for income earned from wholesale sales, but not retail sales, of agricultural products by agricultural producers (farmers).

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to:

- 1) Define the B&O tax base to exclude wholesale agricultural income but include retail sales of agricultural products or processed food; and
- 2) Support farmers during the financially difficult times of the Great Depression.

Year Enacted: 1935

2008 Legislative Auditor Recommendation: Review and clarify because incomes have increased significantly for some farms since the period of financial hardships when this preference was enacted. The Legislature should consider establishing an income threshold in order to qualify.

2008 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$51.800	\$53.900	\$56.100	\$58.300
Local taxes	\$0.000	\$0.000	\$0.000	\$0.000

Agricultural Products (Litter Tax)

Current statute: RCW 82.19.050(2)

Department of Revenue 2016 Tax Exemption Report (p. 353):

Description: Farmers selling agricultural crops and animals at wholesale are exempt from the litter tax.

Purpose: Recognizes food products sold at wholesale are not generally associated with significant amounts of litter.

Category/Year Enacted: Agriculture. 1971

Primary Beneficiaries: Farmers

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$1.398	\$1.398	\$1.398	\$1.398
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing the exemption would increase revenues.

Agricultural Products (Property Tax)

Current statute: RCW 84.36.470

Department of Revenue 2016 Tax Exemption Report (p. 489):

Description: All agricultural products, as defined in RCW 82.04.213, grown or produced for sale by a person on lands owned or leased by the producer are exempt from property tax. Marijuana is not an agricultural product.

Purpose: To assist the agricultural economy.

Category/Year Enacted: Agriculture. 1984

Primary Beneficiaries: Agricultural producers, processors, and shippers

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$22.911	\$22.888	\$22.685	\$22.934
Local taxes	\$103.311	\$106.093	\$106.55	\$109.151

Repeal of Exemption

Repealing a property tax exemption would not increase state revenues. The repeal shifts the state property tax to the currently exempt taxpayers and reduces the tax burden of other taxpayers. The repeal may decrease the local rate. Local taxing districts at their statutory maximum may experience a revenue increase.

Anaerobic Digesters for Dairies (Sales and Use Tax)

Current statutes: RCW 82.08.900; 82.12.900

Department of Revenue 2016 Tax Exemption Report (p. 786):

Description: Dairy and livestock owners that build anaerobic digesters that primarily treat manure receive a retail sale and use tax exemption. The exemption covers construction, equipment and installation of the anaerobic digester. A person claiming this exemption must provide an application to the Department.

Purpose: To support the dairy and livestock industry in Washington.

Category/Year Enacted: Agriculture. 2001

Primary Beneficiaries: Washington dairies

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.059	\$0.059	\$0.059	\$0.059
Local taxes	\$0.016	\$0.016	\$0.016	\$0.016

Repeal of Exemption

Repealing this exemption would increase state revenues. Owners of anaerobic digesters would pay retail sale and use tax on digester construction and repairs.

Aquaculture Feed (Sales and Use Tax)

Current statutes: RCW 82.08.0294; 82.12.0294

Department of Revenue 2016 Tax Exemption Report (p. 731):

Description: Persons who raise fish in confined rearing areas for sale are exempt from retail sales and use tax on purchases of feed.

Purpose: To provide equivalent treatment with farmers whose purchases of feed for their livestock are exempt from sales and use tax. This recognizes that aquaculture and agriculture are similar activities.

Category/Year Enacted: Agriculture. 1985

Primary Beneficiaries: Fish farmers

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.090	\$0.090	\$0.090	\$0.090
Local taxes	\$0.033	\$0.033	\$0.033	\$0.033

Repeal of Exemption

Repealing this exemption would increase revenues.

Breeding Livestock, Cattle, and Milk Cows (Sales and Use Tax)

Current statutes: RCW 82.08.0259; 82.12.0261

JLARC 2010 Tax Preference Reviews (p. 111):

Description: Provides a sales and use tax exemption for sales of livestock to be used for breeding purposes and sales of cattle and milk cows for use on a farm. The livestock for breeding must be registered in a nationally recognized breed association.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to recognize breeding livestock, cattle, and milk cows as ingredients and component parts used by farmers/agricultural producers to produce agricultural products for sale. This is consistent with sales tax exemptions provided for ingredients and component parts in other industries.

Year Enacted: 1945

2010 Legislative Auditor Recommendation: Continue because the preference is meeting its inferred public policy objective of recognizing breeding livestock, cattle, and milk cows used on farms as ingredients and component parts used by farmers/agricultural producers to produce agricultural products for sale.

2010 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$9.500	\$9.690	\$9.880	\$10.080
Local taxes	\$2.549	\$2.600	\$2.652	\$2.705

Chicken Bedding Materials (Sales and Use Tax)

Current statutes: RCW 82.08.920; 82.12.920

JLARC 2015 Tax Preference Reviews:

Description: Provides a sales and use tax exemption to farmers that raise chickens to produce meat or eggs for sale for bedding materials used to collect and remove chicken manure.

Purpose: The Legislature did not state the public policy objectives. JLARC staff infer the policy objectives were to:

- 1) Help Washington's agricultural industry during a period when it was struggling; and
- 2) Make Washington's chicken industry more competitive with other chicken-producing states.

Year Enacted: 2001

2015 Legislative Auditor Recommendation: Review and clarify because the two inferred objectives lead to different conclusions. If the objective was to help chicken farmers at a time when agriculture was struggling, then the Legislature should consider whether assistance is still needed in light of increases in sales, and commodity prices relative to the increase in propane costs. If the objective was to make taxation of Washington chicken farmers more consistent with other states, that objective has been achieved. The taxation of propane and natural gas to heat chicken structures and bedding materials is similar to that of other states with which Washington competes. The Legislature may want to consider adding reporting or other accountability requirements that would provide better information on the use of this preference.

2015 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: \$1,091,000 in the 2017-19 Biennium.

Christmas Tree Inputs (Sales and Use Tax)

Current statute: RCW 82.04.213

Department of Revenue 2016 Tax Exemption Report (p. 637):

Description: Items purchased for the production of plantation Christmas trees are exempt from retail sales and use tax because plantation Christmas trees are included in the definition of agricultural products. The definition of retail sale in RCW 82.04.050(11)(b) excludes agricultural products.

Purpose: Recognizes that production of plantation Christmas trees is similar to the production of other agricultural products.

Category/Year Enacted: Agriculture. 1987

Primary Beneficiaries: Growers of plantation Christmas trees

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.748	\$0.748	\$0.748	\$0.748
Local taxes	\$0.284	\$0.284	\$0.284	\$0.284

Repeal of Exemption

A repeal of this exemption would increase revenues.

Christmas Tree Producers (B&O Tax)

Current statutes: RCW 82.04.100; 82.04.330

Department of Revenue 2016 Tax Exemption Report (p. 75):

Description: Farmers who grow Christmas trees on a plantation using agricultural production methods are exempt from the extracting and wholesaling B&O tax. Retail sales of plantation Christmas trees by farmers are subject to retailing B&O and retail sales taxes.

Purpose: Recognizes that production of Christmas trees is similar to other agricultural production.

Category/Year Enacted: Agriculture. 1987

Primary Beneficiaries: Christmas tree farmers

Possible Program Inconsistency: No

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.197	\$0.195	\$0.193	\$0.192
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Christmas Trees and Cottonwoods (Timber Tax)

Current statute: RCW 84.33.170

Department of Revenue 2016 Tax Exemption Report (p. 864):

Description: Christmas trees and short-rotation hardwoods, such as cottonwoods grown by agricultural methods are not subject to the timber excise tax. However, when short rotation hardwoods are cultivated by agricultural methods on land classified under RCW Chapter 84.34 as timber land, they are subject to timber excise tax.

Purpose: Recognizes that these trees are considered agricultural products, which are not subject to a tax on their harvest value.

Category/Year Enacted: Agriculture. 1971

Primary Beneficiaries: Growers of Christmas trees and hardwoods

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.418	\$0.418	\$0.418	\$0.418
Local taxes	\$1.671	\$1.671	\$1.671	\$1.671

Repeal of Exemption

Repealing this exemption would increase revenues.

Conditioned Seed Wholesaling (B&O Tax)

Current statute: RCW 82.04.331

Department of Revenue 2016 Tax Exemption Report (p. 78):

Description: Wholesale sales to farmers of conditioned seeds used for planting are exempt from B&O tax. The exemption also applies to conditioning seed owned by other persons.

The exemption excludes seeds packaged for retail sale, “flower seeds” or “vegetable seeds” as defined in RCW 15.49.011, seeds or portions of plants used to grow marijuana, ornamental flowers, shrubs, trees, ferns, or mosses.

Purpose: To assist firms that provide seed used in commercial agriculture.

Category/Year Enacted: Agriculture. 1998

Primary Beneficiaries: Wholesalers of conditioned seeds used for planting

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.892	\$0.940	\$0.990	\$1.043
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Conifer Seedlings Sold Out-of-State (Sales and Use Tax)

Current statutes: RCW 82.08.850; 82.12.850

Department of Revenue 2016 Tax Exemption Report (p. 777):

Description: Sales of conifer seeds that are immediately placed in freezer storage operated by the seller are exempt from retail sales and use tax if they are used for growing timber:

- Outside of Washington, or
- In Indian country by an Indian tribe.

Purpose: To eliminate the tax disadvantage for Washington conifer seed producers compared with out-of-state producers.

Category/Year Enacted: Agriculture. 2001

Primary Beneficiaries: A small number of Washington vendors of forest seedlings

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.031	\$0.031	\$0.031	\$0.031
Local taxes	\$0.012	\$0.012	\$0.012	\$0.012

Repeal of Exemption

Repealing this exemption would increase revenues.

Conservation Futures (Property Tax)

Current statute: RCW 84.36.500

Department of Revenue 2016 Tax Exemption Report (p. 494):

Description: Property tax does not apply to conservation futures of unlimited duration on agricultural lands owned by any nonprofit corporation or association. To qualify, the primary purpose of these organizations must be the conservation of agricultural lands and the prevention of converting these lands to non-agricultural uses.

Purpose: To encourage the retention of farm lands in urban transitional areas.

Category/Year Enacted: Nonprofit. 1984

Primary Beneficiaries: Nonprofit organizations that acquire development rights to agricultural lands and owners of the agricultural lands

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0	\$0	\$0	\$0
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing a property tax exemption would not increase state revenues. The repeal shifts the state property tax to the currently exempt taxpayers and reduces the tax burden of other taxpayers. The repeal may decrease the local rate. Local taxing districts at their statutory maximum may experience a revenue increase.

Crop Dusting (Aircraft Fuel Tax)

Current statute: RCW 82.42.230(1)

Department of Revenue 2016 Tax Exemption Report (p. 291):

Description: A refund is available for aircraft fuel tax paid on fuel consumed in aircraft principally used for spraying crops if the aircraft operates from a private, non-state-funded airfield during at least 95 percent of the aircraft's normal use.

Purpose: To lower the tax burden on agriculture.

Category/Year Enacted: Agriculture. 1982

Primary Beneficiaries: Unknown

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax - Unknown				
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Farm Auction Sales (Sales and Use Tax)

Current statutes: RCW 82.08.0257; 82.12.0258

JLARC 2008 Tax Preference Reviews (p. 113):

Description: Provides a sales and use tax exemption for farming machinery and equipment (including household goods or autos used on a farm) that are owned by a farmer and sold by an auctioneer at an auction occurring on farmland.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to:

- 1) Benefit farmers who sell their machinery and equipment on a farm; and
- 2) Assist farmers in exchanging their old farm machinery and equipment with newer machinery in order to increase agricultural production to meet U.S. and world demand for food during World War II.

Year Enacted: 1943

2008 Legislative Auditor Recommendation: Review and clarify. Because Washington currently does not have uniform tax treatment for all purchases of used farm machinery and equipment regardless of location and method by which the property is acquired, the Legislature should require reporting information of on-farm auction sales and review the policy of these retail sales and use tax exemptions.

2008 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$3.011	\$3.101	\$3.194	\$3.290
Local taxes	\$0.808	\$0.832	\$0.857	\$0.883

Farm Machinery Replacement Parts (Sales and Use Tax)

Current statutes: RCW 82.08.855; 82.12.855

JLARC 2015 Tax Preference Reviews:

Description: Provides a sales and use tax exemption for eligible farmers on purchases of: Replacement parts for qualifying farm machinery and equipment (M&E); Labor and services to install replacement parts; and Labor and services to repair qualifying farm M&E.

Purpose: The Legislature did not state the public policy objective. JLARC staff infer the policy objectives were:

- 1) When enacted in 2006, to help farmers during a time when crop prices were stagnant and input costs were increasing;
- 2) When expanded in 2007, to cover additional items and services due to lower than projected use; and
- 3) When changed in 2014, to simplify reporting for farmers.

Year Enacted: 2006

2015 Legislative Auditor Recommendation: Review and clarify because:

- 1) It is unclear whether the combined circumstance of stagnant crop prices and rising input costs still applies, and what changes in prices and costs would be appropriate for continuing the preferences relative to farm profits;
- 2) It is unclear what participation level of eligible farmers and the total fiscal impact of the preference the Legislature intended; and
- 3) The Legislature may want to consider adding reporting or other accountability requirements that would provide better information on the use of this preference.

2015 Citizen Commission Comment: Endorses with comment. The Legislature is encouraged to clearly state the public policy of the preference and make sure it is designed effectively to achieve that purpose. Rationale: Washington State agricultural producers compete with their counterparts in other states who are subject to different tax regimes. Research by JLARC staff shows other major agricultural states also provide tax exceptions for machinery parts. This was also confirmed by testimony from agricultural producers. This implies that the existing preference may be necessary to enable Washington State agricultural producers to compete effectively. However, as currently designed, this preference may be more than sufficient or inadequate to assure competitive equity.

Estimated Beneficiary Savings: \$62,200,000 in the 2015-17 Biennium.

Farm Machinery Sold to Nonresidents (Sales Tax)

Current statute: RCW 82.08.0268

JLARC 2010 Tax Preference Reviews (p. 15):

Description: Provides a sales tax exemption to nonresidents who purchase and take delivery in Washington of machinery, implements, and parts for use in farming, as well as repair labor and services on such goods, so long as they immediately take the machinery, implements, or parts outside the state.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to encourage nonresidents to purchase farm machinery, implements, parts, and repair services in Washington.

Year Enacted: 1961

2010 Legislative Auditor Recommendation: Continue because it is likely achieving the public policy intent of encouraging nonresidents to purchase farm machinery and repair services in Washington.

2010 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$7.042	\$7.394	\$7.764	\$8.155
Local taxes	\$1.890	\$1.990	\$2.080	\$2.190

Farm Property (Estate Tax)

Current statute: RCW 83.100.046

JLARC 2015 Tax Preference Reviews:

Description: When heirs are calculating the value of an estate for the estate tax, they may deduct the value of family-owned farms.

Purpose: The Legislature did not state the public policy objectives. JLARC staff infer the policy objectives were to reduce the likelihood of heirs being forced to sell the family farm or business in order to pay estate taxes.

Year Enacted: 2005

2015 Legislative Auditor Recommendation: Review and clarify to determine whether there are unintended beneficiaries because the heirs may immediately sell the farm without penalty.

2015 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: \$3,300,000 in the 2017-19 Biennium.

Farming Machinery and Equipment (Property Tax)

Current statute: RCW 84.36.630

Department of Revenue 2016 Tax Exemption Report (p. 508):

Description: Personal property in the form of machinery and equipment owned by a farmer and used in growing and producing agricultural products is exempt from the state property tax only. Farm machinery is still subject to local property tax levies.

Purpose: To reduce the property tax burden for farmers.

Category/Year Enacted: Agriculture. 2001

Primary Beneficiaries: Farmers

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$2.202	\$2.249	\$2.308	\$2.368
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing a property tax exemption would not increase state revenues. The repeal shifts the state property tax to the currently exempt taxpayers and reduces the tax burden of other taxpayers.

Farm-Worker Housing (Sales and Use Tax)

Current statutes: RCW 82.08.02745; 82.12.02685

Department of Revenue 2016 Tax Exemption Report (p. 707):

Description: Purchases of goods and services used in constructing, repairing, or improving new or existing structures used as agricultural employee housing are exempt from retail sales/use tax. Agricultural employers, governmental entities, nonprofit organizations, or for-profit housing providers may own housing facilities. Agricultural employee housing does not include housing regularly provided on a commercial basis to the general public.

Purpose: To encourage construction of housing facilities for agricultural employees.

Category/Year Enacted: Agriculture. 1996

Primary Beneficiaries: Farmers and others who build housing facilities for farm workers

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.685	\$0.685	\$0.685	\$0.685
Local taxes	\$0.184	\$0.184	\$0.184	\$0.184

Repeal of Exemption

Repealing this exemption would increase revenues.

Feed and Seed (Sales and Use Tax)

Current statute: RCW 82.04.050(11)

JLARC 2009 Tax Preference Reviews (p. 115):

Description: Provides a sales and use tax exemption for feed, seed, and seedlings purchased by farmers and persons participating in conservation and habitat protection programs.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to recognize feed and seed as ingredients and component parts used by farmers and agricultural producers to produce agricultural products for sale. This is consistent with sales tax exemptions provided for ingredients and component parts in other industries. A second implied public policy objective is to encourage participation in conservation and habitat protection programs.

Year Enacted: 1935

2009 Legislative Auditor Recommendation: Continue because the exemption is achieving the public policy objectives of taxing final consumption under the retail sales tax, and encouraging persons to participate in conservation and habitat protection programs.

2009 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$100.480	\$103.500	\$106.599	\$109.797
Local taxes	\$26.964	\$27.773	\$28.606	\$29.465

Fertilizer and Chemical Sprays (Sales and Use Tax)

Current statute: RCW 82.04.050(11)

JLARC 2010 Tax Preference Reviews (p. 83):

Description: Provides a sales and use tax exemption to qualifying farmers or persons in certain conservation programs for fertilizer and spray materials, as well as chemical sprays or washes used on postharvest fruit to prevent decay.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to recognize fertilizer, spray materials, and chemical sprays and washes as ingredients and component parts used by farmers and agricultural producers to produce agricultural products for sale. This is consistent with sales tax exemptions provided for ingredients and component parts in other industries. A second implied public policy objective is to encourage participation in conservation and habitat protection programs.

Year Enacted: 1943

2010 Legislative Auditor Recommendation: Continue because the preference is achieving the inferred public policy objectives of recognizing fertilizer and spray materials as ingredients and component parts used by farmers/agricultural producers to produce agricultural products for sale, and encouraging farmers and landowners to participate in conservation and habitat protection programs.

2010 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$80.371	\$84.390	\$88.610	\$93.040
Local taxes	\$21.570	\$22.650	\$23.780	\$24.970

Fuel Used on Farms (Sales and Use Tax)

Current statutes: RCW 82.08.865; 82.12.865

JLARC 2015 Tax Preference Reviews:

Description: Provides a sales and use tax exemption for diesel, biodiesel, or aircraft fuel purchased by farm fuel users to use in growing, raising, or producing agricultural crops.

Purpose: The Legislature did not state the public policy objective. JLARC staff infer the policy objectives were to:

- 1) Provide a price break to farmers when fuel costs increased; and
- 2) Make Washington consistent with other states in farm fuel tax treatment.

Year Enacted: 2006

2015 Legislative Auditor Recommendation: Review and clarify to provide a performance statement that specifies a public policy objective and provides a metric, such as a metric based on the price of diesel, to determine when the preference is necessary.

2015 Citizen Commission Comment: Endorses with comment. The Legislature is encouraged to clearly state the public policy of the preference and make sure it is designed effectively to achieve that purpose. Rationale: Washington State agricultural producers compete with their counterparts in other states who are subject to different tax regimes. Research by JLARC staff shows other major agricultural states also provide tax exceptions for farm fuel. This was also confirmed by testimony from agricultural producers. This implies that the existing preference may be necessary to enable Washington State agricultural producers to compete effectively. Nevertheless, the preference was passed to alleviate the impact of rising diesel costs in 2006 without an explicit review clause. For tax preferences that are enacted to deal with potentially transitory market shocks, the legislature should consider a clause that triggers an automatic review should market conditions return to pre-shock levels. In addition, as currently designed and given the drop in fuel costs, this preference may be more than sufficient or inadequate to assure competitive equity.

Estimated Beneficiary Savings: \$53,200,000 in the 2015-17 Biennium.

Gas Used to Heat Chicken Houses (Sales and Use Tax)

Current statutes: RCW 82.08.910; 82.12.910

JLARC 2015 Tax Preference Reviews:

Description: Provides a sales and use tax exemption to farmers that raise chickens to produce eggs or meat for sale for propane or natural gas used to heat barns, sheds, or other structures that house chickens.

Purpose: The Legislature did not state the public policy objectives. JLARC staff infer the policy objectives were to:

- 1) Help Washington's agricultural industry during a period when it was struggling; and
- 2) Make Washington's chicken industry more competitive with other chicken-producing states.

Year Enacted: 2001

2015 Legislative Auditor Recommendation: Review and clarify because the two inferred objectives lead to different conclusions. If the objective was to help chicken farmers at a time when agriculture was struggling, then the Legislature should consider whether assistance is still needed in light of increases in sales, and commodity prices relative to the increase in propane costs. If the objective was to make taxation of Washington chicken farmers more consistent with other states, that objective has been achieved. The taxation of propane and natural gas to heat chicken structures and bedding materials is similar to that of other states with which Washington competes. The Legislature may want to consider adding reporting or other accountability requirements that would provide better information on the use of this preference.

2015 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: \$4,268,000 in the 2017-19 Biennium.

Grain and Unprocessed Milk Wholesaling (B&O Tax)

Current statute: RCW 82.04.332

JLARC 2015 Tax Preference Reviews:

Description: Provides a business and occupation (B&O) tax exemption for wholesale sales of several unprocessed grains and other commodities, and unprocessed milk.

Purpose: The Legislature did not state the public policy objective. JLARC staff infer the policy objectives were:

- 1) Wholesale Grain Sales (1939) – It is unclear why the Legislature provided a preferential rate to wholesale sales of wheat, barley, and oats and not to wholesalers of other agricultural products;
- 2) Wholesale Grains and Other Commodities (1998) – To simplify tax reporting for both taxpayers and the Department of Revenue; and
- 3) Wholesale Unprocessed Milk (2007) – To tax these goods in the same way as wholesale sales of unprocessed grains.

Year Enacted: 1998

2015 Legislative Auditor Recommendation: Review and clarify because it is unclear why the Legislature chose to provide preferential treatment to wholesale sales of certain crops but not to other agricultural products.

2015 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: \$14,400,000 in the 2017-19 Biennium.

Growing Crops (Property Tax)

Current statute: RCW 84.40.030(3)

JLARC 2007 Tax Preference Reviews (p. 21):

Description: Provides a property tax exemption for the value of crops from the assessed value of farmland.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to:

- 1) Define property tax values and the tax base;
- 2) Ensure a fair land value for agricultural land regardless of when the crop was grown and harvested; and
- 3) Ensure an administrable tax, due to the difficulty of assessing the value of all crops on the ground each year statewide.

Year Enacted: 1890

2007 Legislative Auditor Recommendation: Continue because the preference is achieving the inferred public policy objectives of defining property tax values and the tax base, ensuring a fair value for agricultural land, and ensuring an easily administered tax system.

2007 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.178	\$0.182	\$0.186	\$0.191
Local taxes	\$0.802	\$0.842	\$0.875	\$0.910

Hay Cubing (B&O Tax)

Current statute: RCW 82.04.120

Department of Revenue 2016 Tax Exemption Report (p. 21):

Description: To manufacture excludes cubing hay or alfalfa (compacting hay into small cubes for shipping, mainly to foreign markets) for B&O tax purposes. As a result, farmers who compact their own hay or alfalfa into cubes for sale at wholesale, are not subject to B&O tax. Persons who cube hay or alfalfa for others are subject to the service or wholesaling B&O tax depending on where the activity takes place. Activity taking place on the grower's land is a service, while activity performed elsewhere is a wholesale transaction.

Purpose: To improve competitive position of Washington firms that cube hay for export.

Category/Year Enacted: Agriculture. 1997

Primary Beneficiaries: Hay cubers that compact their own hay or alfalfa into cubes for sale at wholesale.

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.546	\$0.546	\$0.546	\$0.560
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Hop Commission Services (B&O Tax)

Current statute: RCW 82.04.338

Department of Revenue 2016 Tax Exemption Report (p. 84):

Description: Nonprofit organizations are exempt from B&O tax on income earned from business activities performed for a hop commodity commission or hop commodity board.

Purpose: To support the hop industry.

Category/Year Enacted: Agriculture. 1998

Primary Beneficiaries: Nonprofits doing services for the Hop Commission

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.021	\$0.021	\$0.021	\$0.021
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase state revenues. Organizations doing business with the Hop Commission would be subject to B&O tax.

Hops Processed and Exported (B&O Tax)

Current statute: RCW 82.04.337

Department of Revenue 2016 Tax Exemption Report (p. 83):

Description: The sale of hops that are processed into extract, pellets or powder in this state and then shipped outside the state for first use are exempt from B&O tax. Income received for processing or warehousing hops is not exempt from the tax.

Purpose: To recognize that the processing of hops into extract, pellets, or powder is merely to facilitate shipment of the product and eliminates it from manufacturing B&O tax.

Category/Year Enacted: Agriculture. 1987

Primary Beneficiaries: Hop producers and merchants

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$1.940	\$1.940	\$1.940	\$1.940
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Horticultural Packing Materials (Sales and Use Tax)

Current statutes: RCW 82.08.0311; 82.12.0311

Department of Revenue 2016 Tax Exemption Report (p. 738):

Description: Materials and supplies used directly in packing fresh, perishable horticultural products are exempt from retail sales and use tax (RCW 82.04.4287).

Purpose: To support the agricultural industry. The exemption complements the B&O tax deduction for processors of fresh horticultural products.

Category/Year Enacted: Agriculture. 1988

Primary Beneficiaries: Fruit and vegetable packers

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.513	\$0.549	\$0.587	\$0.628
Local taxes	\$0.138	\$0.147	\$0.158	\$0.169

Repeal of Exemption

Repealing this exemption would increase revenues.

Horticultural Services for Farmers (Sales and Use Tax)

Current statute: RCW 82.04.050(3)(e)

JLARC 2015 Tax Preference Reviews:

Description: Provides a sales and use tax exemption for purchases of horticultural services by farmers.

Purpose: The Legislature did not state the public policy objective. JLARC staff infer the policy objective was to treat horticultural services provided to farmers as mandatory, nondiscretionary services, rather than as discretionary services subject to sales tax.

Year Enacted: 1993

2015 Legislative Auditor Recommendation: Continue because the preference is achieving the inferred public policy objective of treating horticultural services provided to farmers as nondiscretionary services rather than as discretionary services subject to sales tax.

2015 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: \$21,062,000 in the 2017-19 Biennium.

Irrigation Water (Public Utility Tax)

Current statute: RCW 82.16.050(7)

JLARC 2008 Tax Preference Reviews (p. 37):

Description: Provides a public utility tax deduction to utility companies for income derived from distributing irrigation water through an irrigation system.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to:

- 1) Define the tax base for public utility tax; and
- 2) Subsidize irrigation districts.

Year Enacted: 1935

2008 Legislative Auditor Recommendation: Review and clarify because of the lack of legislative intent and growth in beneficiaries, the Legislature should review the tax preference and clarify if gross income derived from non-agricultural uses of irrigation water should be allowed for this tax deduction.

2008 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$1.390	\$1.432	\$1.475	\$1.519
Local taxes	\$0.000	\$0.000	\$0.000	\$0.000

Leased Irrigation Equipment (Sales and Use Tax)

Current statutes: RCW 82.08.0288; 82.12.0283

Department of Revenue 2016 Tax Exemption Report (p. 726):

Description: Leases of irrigation equipment are exempt from retail sales and use tax, if:

- The lessor purchased the equipment to irrigate land they control;
- The lessor paid sales or use tax on the equipment;
- The equipment is attached to the land;
- The equipment is an incidental part of the land lease; and
- The equipment is not used in the production of marijuana.

Purpose: Normally, persons who lease tangible personal property pay sales tax to the lessor. However, in this instance, the owner of the land previously paid the sales tax on the equipment. For sales tax to apply at the lessee level, the original acquisition of the equipment by the lessor would be an exempt sale for resale.

Category/Year Enacted: Agriculture. 1983

Primary Beneficiaries: Farmers that lease land which includes irrigation equipment

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$2.941	\$3.030	\$3.120	\$3.214
Local taxes	\$0.789	\$0.813	\$0.837	\$0.862

Repeal of Exemption

Repealing this exemption would increase revenues.

Livestock Feed (Sales and Use Tax)

Current statutes: RCW 82.08.0296; 82.12.0296

Department of Revenue 2016 Tax Exemption Report (p. 732):

Description: Feed consumed by livestock at public livestock markets is exempt from the sales and use tax.

Purpose: Feed sold to farmers is already exempt from the sales and use tax. This provision extends the exemption to feed consumed by livestock (e.g., cattle) while awaiting sale at a livestock market.

Category/Year Enacted: Agriculture. 1986

Primary Beneficiaries: Operators of public livestock markets

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.114	\$0.114	\$0.114	\$0.114
Local taxes	\$0.007	\$0.007	\$0.007	\$0.007

Repeal of Exemption

Repealing this exemption would increase revenues.

Livestock Medicine (Sales and Use Tax)

Current statutes: RCW 82.08.880; 82.12.880

JLARC 2015 Tax Preference Reviews:

Description: Provides a sales and use tax exemption for animal pharmaceutical purchases by farmers or licensed veterinarians.

Purpose: The Legislature did not state the public policy objective. JLARC staff infer the policy objectives were to:

- 1) Make Washington farmers more competitive with other states; and
- 2) Encourage more animal drug purchases in local communities.

Year Enacted: 2001

2015 Legislative Auditor Recommendation: Review and clarify to provide a performance statement that includes a public policy objective and specifies metrics to determine if the objectives have been achieved.

2015 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: \$5,430,000 in the 2017-19 Biennium.

Livestock Nutrient Management Equipment (Sales and Use Tax)

Current statutes: RCW 82.08.890; 82.12.890

Department of Revenue 2016 Tax Exemption Report (p. 785):

Description: Equipment used for livestock nutrient management, including the maintenance and repair of equipment, as well as the installation in a facility, are exempt from retail sales and use tax. The exemption applies to purchases made after the management plan is certified pursuant to the law. The facilities and equipment must be used exclusively for the handling and treatment of livestock manure, including repair and replacement parts for such equipment.

Purpose: To support the Washington dairy industry and livestock feeding operations.

Category/Year Enacted: Agriculture. 2001

Primary Beneficiaries: Dairies and livestock operations

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.631	\$0.631	\$0.631	\$0.631
Local taxes	\$0.169	\$0.169	\$0.169	\$0.169

Repeal of Exemption

Repealing this exemption would increase revenues. Operators of facilities used for livestock nutrient management would pay retail sales and use tax on equipment.

Nursery Stock (Property Tax)

Current statute: RCW 84.40.220

Department of Revenue 2016 Tax Exemption Report (p. 531):

Description: Nursery stock not grown in the ground (e.g. pots or bags) is exempt from property tax.

Purpose: To provide tax treatment for nursery stock that is equivalent to growing crops.

Category/Year Enacted: Agriculture. 1971

Primary Beneficiaries: Owners of nurseries

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.256	\$0.248	\$0.240	\$0.238
Local taxes	\$1.156	\$1.148	\$1.126	\$1.130

Repeal of Exemption

Repealing this exemption results in a state levy shift of an estimated \$200,000 and a local levy shift of an estimated \$1.0 million in Fiscal Year 2018.

Pollen (Sales and Use Tax)

Current statutes: RCW 82.08.0277; 82.12.0273

Department of Revenue 2016 Tax Exemption Report (p. 709):

Description: Sales and use of pollen are exempt from the retail sales and use tax.

Purpose: To support the agricultural and horticultural industry.

Category/Year Enacted: Agriculture. 1967

Primary Beneficiaries: Farmers that buy pollen

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.026	\$0.026	\$0.026	\$0.026
Local taxes	\$0.007	\$0.007	\$0.007	\$0.007

Repeal of Exemption

Repealing this exemption would increase revenues.

Pollination Agents (Sales and Use Tax)

Current statute: RCW 82.04.050(11)

Department of Revenue 2016 Tax Exemption Report (p. 623):

Description: The definition of “retail sale” excludes sales of agents for enhanced pollination including insects such as bees to: (1) persons or farmers participating in certain habitat development/conservation programs, or (2) farmers for the purpose of producing any agricultural product for sale.

Purpose: To aid certain sectors of the agricultural industry reliant on pollination agents to produce agricultural products (such as the alfalfa industry) and make those agricultural sectors more competitive with competitors in other countries.

Category/Year Enacted: Agriculture. 1993

Primary Beneficiaries: Farmers that purchase leaf-cutter bees for pollination purposes

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.018	\$0.018	\$0.018	\$0.018
Local taxes	\$0.005	\$0.005	\$0.005	\$0.005

Repeal of Exemption

A repeal of this exemption would increase revenues.

Poultry Used in Production (Sales and Use Tax)

Current statutes: RCW 82.08.0267; 82.12.0262

JLARC 2010 Tax Preference Reviews (p. 9):

Description: Provides a sales and use tax exemption for purchases of poultry to produce for sale other poultry (e.g., chicks) or poultry products (e.g., eggs). Although “poultry” is not defined in state statute for tax purposes, the term refers to domestic fowl that are valued for their meat and eggs, such as chickens, turkeys, geese, and ducks.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to recognize poultry as ingredients and component parts used by farmers and agricultural producers to produce agricultural products for sale. This is consistent with sales tax exemptions provided for ingredients and component parts in other industries.

Year Enacted: 1961

2010 Legislative Auditor Recommendation: Continue because the preference is achieving the inferred public policy objective of excluding agricultural ingredients and component parts from the tax base.

2010 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.176	\$0.179	\$0.182	\$0.186
Local taxes	\$0.047	\$0.048	\$0.049	\$0.050

Processing Horticultural Products (B&O Tax)

Current statute: RCW 82.04.4287

JLARC 2008 Tax Preference Reviews (p. 17):

Description: Provides a business and occupation tax deduction for income earned by an agent or contractor for receiving, washing, sorting, and packing of fresh horticultural products for farmers.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to:

- 1) Define the B&O tax base;
- 2) Support agricultural farmers and contractors to farmers; and
- 3) Ensure that private contractors receive the same tax exempt benefits for washing, sorting, and packing horticultural products that a farmer receives if he/she performs the work.

Year Enacted: 1935

2008 Legislative Auditor Recommendation: Continue because the preference is achieving the inferred public policy objectives of defining the tax base, supporting farmers and farm contractors, and providing equity between farmers and contractors who may perform the same work.

2008 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings (\$ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	\$3.955	\$4.100	\$4.280	\$4.500
Local taxes	\$0.000	\$0.000	\$0.000	\$0.000

Product Leases (Leasehold Excise Tax)

Current statute: RCW 82.29A.120(2)

Department of Revenue 2016 Tax Exemption Report (p. 323):

Description: A credit equal to 33 percent of the tax otherwise due on product leases, i.e., leases where the lessee pays the lessor a percentage of the value of the crop produced on the land.

Purpose: To support agriculture.

Category/Year Enacted: Agriculture. 1976

Primary Beneficiaries: Farmers who produce crops or graze livestock on publicly owned land

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.309	\$0.315	\$0.323	\$0.332
Local taxes	\$0.271	\$0.277	\$0.283	\$0.291

Repeal of Exemption

Repealing this exemption would increase revenues.

Seed Conditioning (B&O Tax)

Current statute: RCW 82.04.120

Department of Revenue 2016 Tax Exemption Report (p. 22):

Description: "To manufacture" excludes seed conditioning for B&O tax purposes. In addition, wholesale sales to farmers of seed conditioned for use in planting, or conditioning seed owned by others for their planting is exempt from the wholesale B&O tax per RCW 82.04.331. See separate estimate.

Purpose: To encourage seed conditioning businesses to relocate in Washington.

Category/Year Enacted: Agriculture. 1987

Primary Beneficiaries: Seed conditioners who manufacture seeds for planting

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$1.973	\$2.076	\$2.182	\$2.295
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Semen for Artificial Insemination (Sales and Use Tax)

Current statutes: RCW 82.08.0272; 82.12.0267

Department of Revenue 2016 Tax Exemption Report (p. 703):

Description: Semen used for artificial insemination of livestock is exempt from retail sales and use tax.

Purpose: To support the agricultural industry.

Category/Year Enacted: Agriculture. 1965

Primary Beneficiaries: Ranchers who purchase semen for artificial insemination of livestock

Possible Program Inconsistency: None

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$0.258	\$0.258	\$0.258	\$0.258
Local taxes	\$0.070	\$0.070	\$0.070	\$0.070

Repeal of Exemption

Repealing this exemption would increase revenues.

Shipping Farm Products to Port (Public Utility Tax)

Current statute: RCW 82.16.050(10)

Department of Revenue 2016 Tax Exemption Report (p. 558):

Description: Businesses may deduct income derived from the transportation of agricultural commodities from points within Washington to interim storage facilities in this state for trans-shipment, without intervening transportation, to an export elevator, wharf, dock, or vessel from gross income subject to public utility tax, if a vessel then ships the commodities, without any intervening transportation, in their original form outside of the state. The deduction only applies if:

- (1) More than 96 percent of all agricultural commodities delivered by the person claiming the deduction and delivered by all other persons to the commodity dealer's interim storage facilities during the preceding year was shipped by vessel in original form outside the state; and
- (2) Any of the commodities that are trans-shipped to ports will be received at storage facilities operated by the same commodity dealer and will be shipped from such facilities by vessel in original form outside the state.

Purpose: To avoid taxing the shipment of agricultural products for export outside of the state.

Category/Year Enacted: Agriculture. 2007

Primary Beneficiaries: Persons who transport grain and other agricultural products

Possible Program Inconsistency: None evident

Taxpayer Savings (\$ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	\$1.216	\$1.246	\$1.278	\$1.390
Local taxes	\$0	\$0	\$0	\$0

Repeal of Exemption

Repealing this exemption would increase revenues.

Warehouse and Grain Elevator Construction and Equipment (Sales and Use Tax)

Current statutes: RCW 82.08.820; 82.12.820

JLARC 2015 Tax Preference Reviews:

Description: Provides a sales and use tax remittance for amounts spent on construction, expansion, or equipment of warehouses, grain elevators, and cold storage facilities.

Purpose: The Legislature stated the public policy objective for this preference was to stimulate interstate trade. JLARC staff infer the additional public policy objective of creating and retaining family wage jobs.

Year Enacted: 1997

2015 Legislative Auditor Recommendation: Review and clarify to provide more specificity about what trade and what kinds of jobs the Legislature has as its objectives, measurable targets for these objectives, and data collection mechanisms that can be used to assess performance in meeting these objectives.

2015 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: \$11,400,000 in the 2017-19 Biennium.