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State of Washington

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Citizen Commission for Performance Measurement of Tax Preferences

May 16, 2014

MEMORANDUM

TO: Citizen Commission Members

FROM: Keenan Konopaski, Legislative Auditor

RE: 2014 Session: Bills and Actions

Four bills in the 2014 session created preferences that will impact future review schedules. Each of these new preferences included a performance statement and performance metrics. The Legislature also extended one preference. These actions are outlined in the table below.

Short Title Brief description	**Estimated Workload Impacts**	
	Performance Statement or Metrics?	**Study Date?**
	Bills Impacting Future Schedules	
Indian Tribes/Property and Leasehold Excise Tax (2014 ESHB 1287) Makes changes to property and leasehold excise tax provisions related to property owned by tribes that is used for economic development purposes.	Categorized as a preference to create jobs and improve the economic health of tribal communities. Preference review must include an economic impact report evaluating: land involved; economic impacts to tribes; state/local government revenue reductions, increases, and shifts; impacts on public infrastructure and public services; impacts on business investment and business competition; types of business activities affected.	Required: *By December 1, 2020…JLARC must perform an economic impact report.* The study directive is added to RCW 43.136, the Commission's statute.

Short Title Brief description	**Estimated Workload Impacts** **Performance Statement or Metrics?**	**Study Date?**
	Bills Impacting Future Schedules	
Derelict &Abandoned Vessels (**2014 2SHB 2457**) A component of the bill establishes a sales and use tax exemption for vessel deconstruction work.	Categorized to induce certain designated behavior by taxpayers. Specifically, the Legislature's objective is to decrease the number of abandoned or derelict vessels by providing incentives to increase vessel deconstruction in WA by lowering the cost of deconstruction. If a review finds that the increase in available capacity to deconstruct derelict vessels or a reduction in the average cost to deconstruct vessels has resulted in an increase in the number of derelict vessels removed from WA waters, the Legislature intends the Legislative Auditor to recommend extending the expiration date of January 1, 2019.	Required: *Pursuant to chapter 43.136 RCW, JLARC must review…by December 2018.*
Natural Gas and Liquefied Natural Gas Used in Transportation (**2014 ESSB 6440**) Provides tax preferences intended to promote the use of liquefied natural gas in transportation.	Categorized to create or retain jobs and to reduce structural inefficiencies in the tax structure. Specifically, the Legislature's objective is to promote job creation and positive economic development; lower carbon dioxide, sulfur dioxide, nitrogen dioxide, and particulate emissions; and secure optimal liquefied natural gas pricing for the state of Washington and other public entities. The bill contains a number of very specific quantitative targets when, if met, create a presumption that the public policy objective has been met. For instance, 18 jobs at a plant equates to job creation; a $250 million dollar capital construction cost equates to economic development; and a number of specific particulate reductions are also stated.	Required: *JLARC must perform review…under Chapter 43.136…in calendar year 2025.*
Promoting Affordable Housing in Unincorporated Areas of Rural Counties Within Urban Growth Areas (**2014 2SSB 6330**) Provides a property tax exemption to developers that build multifamily housing and increase affordable housing units in qualifying rural counties.	Categorized to induce certain behavior by taxpayers. Specifically, the Legislature's objective is to stimulate the construction of new multifamily housing in urban growth areas located in unincorporated areas of qualifying rural counties. Qualifying construction is exempt from ad valorem property tax for eight to 12 years. If a review finds that 20 percent of new housing is developed and occupied by households making at or below 80 percent of area median income (with certain adjustments also permitted), then the Legislature intends to extend the expiration date of the preference (January 1, 2020).	Expected in 2018: The preference expires in 2020 and includes language suggesting JLARC refer to certain data sources. However, there is no specific directive to JLARC.

Bill Extending a Previously Reviewed Preference
Commuting Programs Credit **(2014 Supplemental Transportation Budget)** Provides a one year extension to a business and occupation tax or public utility tax credit to employers and property managers for amounts they pay to or on behalf of employees that use commuting programs. When reviewed in 2012, the Legislative Auditor recommended the Legislature review and clarify the preference, as it is unclear if it is reducing commute trips. The Commission recommended that it be allowed to expire since many companies offer incentives as a standard component of their employee benefit program and the Commission believes the expiration would be unlikely to result in a material reduction in businesses provision of trip reduction financial incentives. The one year extension did not include a performance statement or any metrics; by law, this means that the Legislature intends for the preference to expire on its scheduled expiration date.

Issues to Consider for Review Schedule and JLARC Workload

(1) The four preferences above illustrate that the Legislature is beginning to state expectations for which specific preferences to review in the future.

It is not always clear however whether these expectations create a directive to JLARC or the Commission. Sometimes the legislation states a JLARC study is "required," and sometimes the legislation implies it is expected by referring to the results of a review.

An immediate decision on the four preferences above is not required, as the possible review dates are between 2018 and 2025.

(2) In 2013, the Legislature also noted a number of new or revised preferences where it "intends to reassess the changes made to ensure the actual fiscal impact reasonably conforms with the fiscal estimate provided in the fiscal note for the legislation."

The 2013 legislation included this expectation of fiscal note conformance for 12 preferences. This expectation raises the issue of whether these preferences should also be reviewed by JLARC.

Most of these preferences are in future review years, and don't require an immediate decision. However, an expansion of a preference for blood banks will expire in 2016 and includes this expectation of fiscal note conformance. JLARC staff just reviewed this preference in 2013.

I suggest we analyze the fiscal note conformance of the blood bank expansion in 2015 before it expires. Doing this analysis may offer insights into whether and how the Commission would like to help the Legislature assess the fiscal note conformance of the other 11 preferences.