Proposed Commission Recommendation to the Legislature Concerning Economic Development Performance Standards and Reporting Mechanisms

During the 2013 session, the Legislature adopted ESSB 5882, an omnibus tax preference bill. Part XVII, "Tax Preference Transparency and Accountability," included several requirements for new tax preferences:

- New preferences are to have a default expiration date of ten years, unless a specific expiration date is specified.
- New preferences are to have a tax preference performance statement which includes a general purpose, a specific purpose, and "clear, relevant, and ascertainable metrics and data."
- Taxpayers claiming the preference must report the value of the preference.
- If the preference does not have a "performance statement," JLARC is not required to conduct a performance review and it is legislatively presumed that the preference should expire on its scheduled expiration date.
- The Legislative Auditor was directed to make recommendations to the Legislature on appropriate data and metrics that should be included in tax preference legislation. In response to this directive, the Legislative Auditor has issued a "guidance report."

The Commission received written testimony from Good Jobs First, which is a non-partisan, non-profit research center located in Washington, DC. Good Jobs First tracks best practices in economic development in all 50 states. According to Good Jobs First, Washington State ranks 10th in the nation in terms of transparency on economic development subsidies. Washington's ranking was boosted considerably by the Legislature's adoption of ESSB 5882 in 2013.

Good Jobs First tracks and evaluates Megadeals intended to spur economic development (workforce development, education, transportation, and infrastructure, etc.) through tax preferences. In many cases the package of tax preferences granted to an industry has lacked rigorous accountability standards. In the case of the Washington State aerospace industry, the package of tax preferences has an estimated value of $8.7 billion value but, according to Good Jobs First, was not accompanied by strong standards and money-back guarantees, if those standards were not met.

Best practices for assessing benefits and costs to taxpayers when enacting tax preferences include one or more of the following:

- Establish specific performance standards, especially for job creation and job quality (wages and benefits)
- Require substantial transparency on beneficiary performance relative to the established standards – this requires establishing data collection vehicles and enabling data analysis
- Establish money back requirements if performance standards are not met
- Establish performance-based requirements which require a beneficiary to meet a performance standard or benchmark before the tax preference is activated

ESSB 5882 provided a framework for establishing performance standards and beneficiary performance transparency. However, as pointed out by Good Jobs First in the case of the aerospace industry preferences, which were adopted after ESSB 5882 become effective, establishing a framework does not assure that performance standards will be rigorous or data collection and analysis will be robust. In addition, the Legislature did not include in ESSB 5882 other best practices, such as money back if performance standards are not met, or performance-based requirements which must be met before the preference is activated.

Citizen Commission Recommendation: The Citizen Commission recommends that the Legislature review the effectiveness of the implementation of ESSB 5882 in light of recent experience and best practices in other states. Such a review could indicate that the intended purposes of ESSB 5882 could be made more effective by ensuring the Legislature applies these practices with specific purpose language to require more specific performance and accountability standards and information reporting for new tax preferences and for preferences whose expiration dates are extended. In establishing more specific performance and accountability standards and reporting requirements, compliance and reporting cost burdens on beneficiaries should be considered relative to the magnitude of the tax preference and size of individual firms. The Legislature should also consider whether to apply ESSB 5882 and any amendments to this statute to beneficiaries of significant existing tax preferences.