

CERTIFICATION OF ENROLLMENT

SENATE BILL 5044

Chapter 335, Laws of 2011

62nd Legislature
2011 Regular Session

TAX PREFERENCE REVIEW PROCESS

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 21, 2011
YEAS 31 NAYS 17

BRAD OWEN

President of the Senate

Passed by the House April 12, 2011
YEAS 56 NAYS 41

FRANK CHOPP

Speaker of the House of Representatives

Approved May 12, 2011, 2:17 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5044** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 13, 2011

**Secretary of State
State of Washington**

SENATE BILL 5044

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senators Rockefeller, Zarelli, and Regala

Read first time 01/12/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to the tax preference review process; and amending
2 RCW 43.136.011, 43.136.045 and 43.136.055.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.136.011 and 2006 c 197 s 1 are each amended to read
5 as follows:

6 The legislature recognizes that tax preferences are enacted to meet
7 objectives which are determined to be in the public interest. However,
8 some tax preferences may not be efficient or equitable tools for the
9 achievement of current public policy objectives. Given the changing
10 nature of the economy and tax structures of other states, the
11 legislature finds that periodic performance audits of tax preferences
12 are needed to determine if their continued existence will serve the
13 public interest. The legislature further finds that tax preferences
14 that are enacted for economic development purposes must demonstrate
15 growth in full-time family wage jobs with health and retirement
16 benefits. Given that an opportunity cost exists with each economic
17 choice, it is the intent of the legislature that the overall impact of
18 economic development-focused tax preferences benefit the state's
19 economy.

1 **Sec. 2.** RCW 43.136.045 and 2006 c 197 s 4 are each amended to read
2 as follows:

3 (1) The citizen commission for performance measurement of tax
4 preferences (~~((shall))~~) must develop a schedule to accomplish an orderly
5 review of tax preferences at least once every ten years. (~~((The~~
6 ~~commission—shall—schedule—tax—preferences—for—review—in))~~) In
7 determining the schedule, the commission must consider the order the
8 tax preferences were enacted into law, (~~((except that))~~) in addition to
9 other factors including but not limited to grouping preferences for
10 review by type of industry, economic sector, or policy area. The
11 commission may elect to include, anywhere in the schedule, a tax
12 preference that has a statutory expiration date. The commission
13 (~~((shall))~~) must omit from the schedule tax preferences that are required
14 by constitutional law, sales and use tax exemptions for machinery and
15 equipment for manufacturing, research and development, or testing, the
16 small business credit for the business and occupation tax, sales and
17 use tax exemptions for food and prescription drugs, property tax relief
18 for retired persons, and property tax valuations based on current use,
19 and may omit any tax preference that the commission determines is a
20 critical part of the structure of the tax system. As an alternative to
21 the process under RCW 43.136.055, the commission may recommend to the
22 joint legislative audit and review committee an expedited review
23 process for any tax preference (~~((that has an estimated biennial fiscal~~
24 ~~impact of ten million dollars or less))~~).

25 (2) The commission (~~((shall))~~) must revise the schedule as needed
26 each year, taking into account newly enacted or terminated tax
27 preferences. The commission (~~((shall))~~) must deliver the schedule to the
28 joint legislative audit and review committee by September 1st of each
29 year.

30 (3) The commission (~~((shall))~~) must provide a process for effective
31 citizen input during its deliberations.

32 **Sec. 3.** RCW 43.136.055 and 2006 c 197 s 5 are each amended to read
33 as follows:

34 (1) The joint legislative audit and review committee (~~((shall))~~) must
35 review tax preferences according to the schedule developed under RCW
36 43.136.045. The committee (~~((shall))~~) must consider, but not be limited

1 to, the following factors in the review as relevant to each particular
2 tax preference:

3 (a) The classes of individuals, types of organizations, or types of
4 industries whose state tax liabilities are directly affected by the tax
5 preference;

6 (b) Public policy objectives that might provide a justification for
7 the tax preference, including but not limited to the legislative
8 history, any legislative intent, or the extent to which the tax
9 preference encourages business growth or relocation into this state,
10 promotes growth or retention of high wage jobs, or helps stabilize
11 communities;

12 (c) Evidence that the existence of the tax preference has
13 contributed to the achievement of any of the public policy objectives;

14 (d) The extent to which continuation of the tax preference might
15 contribute to any of the public policy objectives;

16 (e) The extent to which the tax preference may provide unintended
17 benefits to an individual, organization, or industry other than those
18 the legislature intended;

19 (f) The extent to which terminating the tax preference may have
20 negative effects on the category of taxpayers that currently benefit
21 from the tax preference, and the extent to which resulting higher taxes
22 may have negative effects on employment and the economy;

23 (g) The feasibility of modifying the tax preference to provide for
24 adjustment or recapture of the tax benefits of the tax preference if
25 the objectives are not fulfilled;

26 (h) Fiscal impacts of the tax preference, including past impacts
27 and expected future impacts if it is continued. For the purposes of
28 this subsection, "fiscal impact" includes an analysis of the general
29 effects of the tax preference on the overall state economy, including,
30 but not limited to, the effects of the tax preference on the
31 consumption and expenditures of persons and businesses within the
32 state;

33 (i) The extent to which termination of the tax preference would
34 affect the distribution of liability for payment of state taxes;

35 (j) The economic impact of the tax preference compared to the
36 economic impact of government activities funded by the tax for which
37 the tax preference is taken at the same level of expenditure as the tax

1 preference. For purposes of this subsection the economic impact shall
2 be determined using the Washington input-output model as published by
3 the office of financial management;

4 (k) Consideration of similar tax preferences adopted in other
5 states, and potential public policy benefits that might be gained by
6 incorporating corresponding provisions in Washington.

7 (2) For each tax preference, the committee (~~shall~~) must provide
8 a recommendation as to whether the tax preference should be continued
9 without modification, modified, scheduled for sunset review at a future
10 date, or terminated immediately. The committee may recommend
11 accountability standards for the future review of a tax preference.

Passed by the Senate April 21, 2011.

Passed by the House April 12, 2011.

Approved by the Governor May 12, 2011.

Filed in Office of Secretary of State May 13, 2011.