SENATE BILL REPORT
SB 5513

As Reported by Senate Committee On:
Ways & Means, February 6, 2018

Title: An act relating to increasing tax exemption transparency and accountability.

Brief Description: Increasing tax exemption transparency and accountability.

Sponsors: Senators Frockt, Hasegawa, Miloscia, Rolfes, Saldaña, Keiser, Wellman, Conway, Chase, Billig, Kuderer, Hunt, McCoy and Darneille.

Brief History:
Committee Activity: Ways & Means: 1/18/18, 2/06/18 [DPS, DNP].

Brief Summary of First Substitute Bill

- Requires the budget outlook document to explicitly reflect the fiscal impact of tax preferences.
- Requires the budget document to include a detailed listing of tax preferences.
- Requires the Department of Revenue tax exemption report to be updated more frequently.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5513 be substituted therefor, and the substitute bill do pass.
Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

Minority Report: Do not pass.
Signed by Senators Braun, Ranking Member; Bailey, Becker, Brown, Schoesler, Wagoner and Warnick.

Staff: Jeffrey Mitchell (786-7438)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: State Operating Budget. The state government operates on a fiscal biennium that begins on July 1 of each odd-numbered year. A two-year biennial operating budget is adopted every odd-numbered year. Appropriations are made in the biennial budgets for the operation of state government and its various agencies and institutions, including higher education and the funding of K-12 public schools.

Governor's Budget Proposal. The Budget and Accounting Act establishes various requirements for the budget documents that the Governor must submit to the Legislature before each regular session. The required documents include the Governor's budget message, which explains the budget and outlines proposed fiscal policies for the period covered by the budget, the budget bill, and other supporting information.

Tax Preferences. A tax preference confers reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences.

Annual Surveys and Reports. Over the last ten years, the Legislature has required taxpayers to file the Annual Survey (Survey) or the Annual Report (Report) in order to qualify for a variety of new economic development-related tax preferences, or in some cases, when extending existing economic development-related preferences. There are currently 32 economic development-related tax preferences that require one of these supplemental filings.

Exemption Study. The Department of Revenue (DOR) must produce and submit a tax exemption report to the Legislature every four years. The report includes a listing of the estimated revenue lost from the exemption and the beneficiary of the exemption. The report also includes the estimated revenue lost for other tax preferences including preferential rates, deductions, and credits. The next report is due in January 2020.

The Citizen Commission for Performance Measurement of Tax Preferences and Joint Legislative Audit and Review Committee: Tax Incentive Reports. The 2006 Legislature established the Citizen Commission for Performance Measurement of Tax Preferences (Commission). The Commission develops a schedule to review nearly all tax preferences at least once every ten years. The Commission also schedules preferences with expiration dates for reviews two years before the tax preference expires. Tax preference reviews are conducted by the Joint Legislative Audit and Review Committee (JLARC) according to the schedule established by the Commission. For each tax preference, the JLARC provides recommendations to continue, modify, schedule for future review, or terminate the preference. The Commission reviews and comments on the JLARC report.

Budget Outlook. A state budget outlook workgroup is required to prepare an official state budget outlook for state revenues and expenditures for the general fund and related funds for the current and subsequent biennium. The outlook must estimate revenues to and expenditures from the state general fund and related funds. The estimate must include maintenance items including, but not limited to, continuation of current programs, forecasted growth of current entitlement programs, and actions required by law, including legislation with a future implementation date.

Summary of Bill (First Substitute): The DOR Tax Exemption Report (Report) is updated every two years instead of every four years. The Report must include recommendations by JLARC and the Commission if the tax preference has been reviewed.

The budget outlook document must separately indicate forgone state tax revenues from discretionary tax preferences and the expenditure impact of continuing those tax preferences.

Estimates of ensuing biennium expenditures must exclude policy items including, but not limited to legislation not yet enacted by the legislature, collective bargaining agreements not yet approved by the legislature, and changes to levels of funding for employee salaries and benefits unless those changes are required by statute. Estimated maintenance level expenditures must also exclude costs of court rulings issued during or within fewer than ninety days before the beginning of the current legislative session.

The Governor's budget documents must include a detailed listing of discretionary tax preferences and the listing must be included on the websites of the Office of Financial Management, Economic Revenue and Forecast Council, and Office of the Governor. The listing must provide the following information:

- a brief description of each discretionary tax preference;
- prior and future estimated fiscal impacts for each discretionary tax preference;
- the stated public policy objective, if any, of the discretionary tax preference; and
- any recommendations by JLARC and the Commission with regarding to continuing, modifying, or eliminating the discretionary tax preference.

Discretionary tax preference is defined to be a tax credit, exemption, deduction, or preferential tax rate, which is not required by the state constitution, United States Constitution, or federal law.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute): Replaces provisions of the underlying bill with the following new requirements: the Report must be updated every two years, the budget outlook document must reflect the impact of discretionary tax preferences, and the budget documents must contain a detailed listing of tax preferences.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately, except Section 3, referring to requiring a biennial tax exemption study by the Department of Revenue, which takes effect July 1, 2018.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There are a lot of things going on in the bill and all of these issues should be open for consideration. At the core, this bill is about having a little more transparency by having a formal tax expenditure budget. It is time to take a real look at tax expenditure accountability, especially in light of the reduced federal corporate tax rate. We need to think about tax reform holistically and this would be a tool to help us with that. This bill would help create a more transparent, rationale, and comprehensive budget process in which the cost and benefits of tax exemptions would be balanced with other budget needs. Under this bill, tax breaks that are truly needed would be reauthorized whereas tax breaks that are outdated or obsolete would provide funds for other high priority needs such as the opioid crisis. Things are a little out of whack where a person receiving state funds for basic needs has to constantly establish that they are using the money appropriately whereas a business receiving a large tax break does not have to prove it is creating jobs. State lawmakers should create a tax structure that is as rationale, comprehensive, and transparent as possible because of the many challenges the state faces. There is very little evidence to support the idea that renewing tax breaks every couple of years will cause uncertainty and hurt the economy. Washington gives away more in tax breaks than it collects in tax revenues. This is a broken system. We have tax breaks that take away $30 billion. For far too long, Washington has prioritized keeping taxes low on the 1 percent while everyone else pays. Washington has over 700 tax breaks and little or no data as to whether these tax breaks work.

CON: The section of the bill that would require reauthorization for tax expenditures would create great uncertainty. There are 64 tax expenditures for the agricultural industry, which is a $49 billion industry employing 145,000 in Washington with $15 billion exported. There is a question about whether it is wise to upset the business planning of this industry every couple of years. The name change of the commission concerns us. The business community does not agree that a tax exemption is necessarily equivalent to foregone government expenditures. Many tax exemptions make necessary adjustments to our tax code.

Persons Testifying: PRO: Senator David Frockt, Prime Sponsor; Steve Zemke, Director, Tax Sanity; Nick Federici, All In For Action; Andy Nicholas, Washington Budget & Policy Center; Melissa Taylor, citizen; Jon Culver, Washington's Paramount Duty; Max Culver, Lake Forest Park Elementary; Steve Clagett, Faith Action Network.

CON: Clay Hill, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: No one.