FINAL BILL REPORT
HB 1495

FULL VETO

Synopsis as Enacted

Brief Description: Providing that qualified dealer cash incentives paid to auto dealers are bona fide discounts for purposes of the business and occupation tax.

Sponsors: Representatives Chapman, Robertson and Dent.

House Committee on Finance
Senate Committee on Ways & Means

Background:

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent (businesses with taxable income of less than $1 million) or 1.75 percent (businesses with taxable income of $1 million or more) for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

Motor Vehicle Dealers.

Motor vehicle dealers performing more than one activity may be subject to tax under one or more B&O classifications. Different tax classifications with different rates apply for the various business activities.

Tax Preferences.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions,

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exemptions, preferential tax rates, deferrals, and credits. Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary:

Motor vehicle dealers are permitted to deduct the amount of any qualified dealer cash incentives from the measure of tax due under the service and other activities B&O classification.

"Qualified dealer cash incentive" means a payment or credit offered to a motor vehicle dealer by a manufacturer of a motor vehicle where:

1. The amount of the incentive is based on the quantity of a specific vehicle model, regardless of whether the dealer is required to sell a minimum number of the vehicles.
2. The dealer knew the terms of the incentive before selling the vehicle for which the incentive is provided.
3. The dealer is not required to provide any service to the manufacturer in order to be eligible for the incentive.

The act is exempt from TPPS requirements, the 10-year expiration of tax preferences, and the JLARC review.

Votes on Final Passage:

House	98	0
Senate	48	1