PRELIMINARY REPORT:
2022 TAX PREFERENCE PERFORMANCE REVIEWS

Commute Trip Reduction

LEGISLATIVE AUDITOR'S CONCLUSION:

More Washingtonians are using commute alternatives. However, fewer employers are requesting the tax credit, and the credit likely has limited influence on the amount of financial incentives employers provide.

July 2022

Executive Summary

Employers can request a B&O or public utility tax credit to reimburse a portion of the financial incentives they pay for employees to use commute alternatives

Estimated Biennial Beneficiary Savings $4.1 Million (2021-23 biennium)
Tax Type Multiple Taxes
RCW 82.70.020 **Applicable Statutes**

Employers may claim a tax credit against the business and occupation (B&O) tax or the public utility tax (PUT) for a portion of the financial incentives they provide their employees to use commute alternatives. Qualifying commute alternatives are:

- Ride sharing in vehicles with more than two people.
- Using public transportation.
- Using car sharing programs.
- Using non-motorized commuting.

Telework is not listed as a commute alternative for which employers may request Commute Trip Reduction (CTR) tax credits.

Employers can request a credit for up to 50% of the amount of financial incentives paid, subject to several limits. In any fiscal year, the amount of credit may not exceed: $60 per employee, $100,000 per employer, or $2.75 million statewide.

Employers must apply for the credit each year. If total credit applications exceed $2.75 million, the Department of Revenue (DOR) must reduce each application by an equal percentage to meet the cap.

The preference is scheduled to expire July 1, 2024.

More Washingtonians are using commute alternatives, but credit is likely of limited influence

When the Legislature extended the preference in 2015, it added a performance statement and mandated that JLARC review the CTR tax credit by the end of 2024. It also directed the Legislative Auditor to recommend continuing the preference if JLARC's review finds an increase in the percentage of Washingtonians using commute alternatives.

The Legislature stated two public policy objectives for the credit and both have been met.

Stated Objectives	Results
Increase percentage of Washingtonians using commute alternatives.	**Met**. The share of Washingtonians using commute alternatives increased from 27.5% to 29.2% between 2015 and 2019, and increased further during the pandemic.
Reduce traffic congestion, automobile-related air pollution, and energy use through employer-based commute trip reduction (CTR) programs.	**Met.** CTR survey data suggests improvements in congestion, pollution, and energy use.

Although the policy objectives are met, the credit likely has limited influence on the incentives that employers provide to their employees and, by extension, on these objectives. JLARC staff found that fewer employers are currently requesting the credit compared to prior years, with the largest drop among smaller employers. Employers are paying more than the amount reimbursed through the credit and offer incentives for other reasons, such as local mandates, recruitment and retention, and voluntary sustainability efforts.

Recommendation

Legislative Auditor's Recommendation: Continue and Modify

The Legislature should continue and modify the preference. Although more Washingtonians are using commute alternatives, the tax credit likely has limited influence on the amount of incentives that employers provide and on employee use of commute alternatives. Modifications to the credit might include:

- **Amending the preference to further reduce single-occupant vehicle travel.** The Legislature may consider options such as increasing the benefit for smaller employers whose use of the preference has declined, targeting new employers, or targeting employers outside of King County. The Legislature should consult with the Department of Transportation when developing amendments. The Department's expertise in administering the Commute Trip Reduction program could help inform any modifications.
- **Alternatively, the Legislature could recategorize the preference as one intended to provide tax relief to employers providing financial incentives for commute alternatives**. If the Legislature chooses to do so, it should consider changing its objective from increasing use of commute alternatives to one that focuses on increasing the number of businesses receiving tax relief for providing incentives to their employees.

You can find more information in Recommendations.

Commissioners' Recommendation

Available on Citizen Commission website October 2022.

REVIEW DETAILS

1. Tax credit for providing commute alternative incentives

Employers can request a B&O or public utility tax credit to reimburse a portion of the financial incentives they provide employees to use commute alternatives

The credit reimburses employers that provide their employees incentives to use commute alternatives

Employers[1] may claim a tax credit against their business and occupation (B&O) tax or public utility tax (PUT) liability for a portion of the financial incentives they provide their employees to use commute alternatives. Qualifying commute alternatives are:

- Ride sharing in vehicles with more than two people.
- Using public transportation.
- Using car sharing programs.
- Using non-motorized commuting.

[1]This report collectively refers to credit users as "employers." Property managers may also claim the credit for financial incentives they provide to employees at worksites they manage.

Telework is not listed as a commute alternative for which employers may request Commute Trip Reduction (CTR) tax credits.

Employers can claim the credit as long as they offer financial incentives to their employees. These may include paying for all or a portion of the costs of public transportation, providing cash prizes, or offering additional paid leave. Employees who receive the incentives are not required to use commute alternatives.

Credit is subject to several limits, including a statewide cap of $2.75 million

To claim the credit, employers must submit an application to the Department of Revenue (DOR) in January following the year in which they provided the incentives. The credit is equal to 50% of the amount they paid in financial incentives, subject to several limits. In any fiscal year, the amount of credit may not exceed:

1. $60 per employee.
2. $100,000 per employer.
3. $2.75 million statewide.

If total credit applications exceed $2.75 million, DOR must reduce each application by the same percentage so that the total credit awarded does not exceed the statewide cap (see section 2 for discussion of CTR tax credit usage).

The credit is not refundable, meaning it can only reduce taxes owed, but cannot result in a tax refund. If employers owe less in taxes than anticipated, they may not be able to claim the full amount of the credit they were allocated. The credit cannot be carried forward to future years.

Employers who claim the CTR tax credit are not required to submit an annual tax performance report.

Exhibit 1.1: Employers apply for credit in January for incentives they paid the prior year

JANUARY - DECEMBER
Employers provide financial incentives to encourage employees to use commute alternatives.

JANUARY (OF NEXT YEAR)
Employers apply to DOR for credits equal to 50% of the amount they paid for incentives, subject to limits specified in law.

BY APRIL
DOR approves applications. If total amount of credit requested exceeds $2.75 million, DOR prorates applications so total amount awarded does not exceed cap.

Source: JLARC staff analysis of statute.

Preference first enacted in 1994, scheduled to expire July 1, 2024

The Legislature created a tax credit for commute trip reduction expenses in 1994 and has extended and amended it several times since. Changes include:

- Extensions and expirations: First extended in 1996, the credit expired in 2000, was reinstated in 2003, and extended again in 2015. It is now scheduled to expire July 1, 2024.
- Amendments to credit limits: In 2005, the Legislature began requiring DOR to prorate applications if the total amount requested exceeded $2.75 million. Until then, the credit was available on a first-in-time basis. In 2015, the per employer cap was reduced from $200,000 to $100,000.

Legislative goals are to reduce traffic congestion, automobile-related air pollution, and energy use by increasing use of commute alternatives

The Legislature added a tax preference performance statement in 2015 and directed JLARC to review the CTR tax credit by December 2024. The goals for the credit are to increase the percentage of Washingtonians using commute alternatives and to reduce:

- Traffic congestion.
- Automobile-related air pollution.
- Energy use.

The Legislature directed the Legislative Auditor to recommend continuing the preference if the review finds that there has been an increase in the percentage of Washingtonians using commute alternatives.

CTR tax credit is distinct from Commute Trip Reduction program, but they overlap in several ways

Washington's CTR program was enacted before the CTR tax credit. The CTR program is required of employers located within certain urban growth areas that meet specific criteria.[2] In contrast, employers who use the tax credit do so voluntarily. It is intended to encourage employers to provide financial incentives to their employees. Some employers participate in both programs, but employers are not required to have a CTR program in order to claim the tax credit.

The CTR program and the tax credit overlap in several ways. The Legislature directed JLARC to use survey data from the CTR program to determine the impact of the tax credit and whether more Washingtonians are using commute alternatives (see section 4 for more details). The focus of this report is on the CTR tax credit.

[2]Have 100 or more employees at a single worksite who begin their work day between 6-9 am.

Exhibit 1.2: Comparison of the Commute Trip Reduction Program and the CTR tax credit

Characteristic	CTR Program	Tax Credit
Year enacted	1991	1994
Legislative goals	• Ease congestion • Improve air quality • Reduce gasoline consumption	• Reduce traffic congestion • Reduce automobile-related air pollution • Reduce energy use
Administering agency	Washington Department of Transportation (WSDOT)	Washington Department of Revenue (DOR)
Who participates?	• Certain jurisdictions[3] must develop CTR plans and adopt ordinances • Major employers[4] within these jurisdictions are required to adopt their own CTR programs • Smaller employers may elect to participate	• Employers of any size can apply if they provide financial incentives to their employees
Requirements	Major employers must: • Designate an employee transportation coordinator. • Regularly distribute information to employees regarding commute alternatives. • Issue surveys every two years to measure the vehicle miles traveled and commute mode choices of their employees. • Submit survey results to WSDOT and participating jurisdictions.	Participating employers must: • Provide their employees with financial incentives to encourage use of commute alternatives. • Submit application for tax credit to DOR.

[3]Counties with urban growth area (UGA), cities within UGA with a state highway segment exceeding a traffic delay threshold, and counties and cities located in contiguous UGAs.

[4]Private or public employers with 100 or more full-time employees at a single worksite who begin work between 6:00-9:00 am on weekdays for 12 continuous months during year.

2. Fewer employers are requesting credit

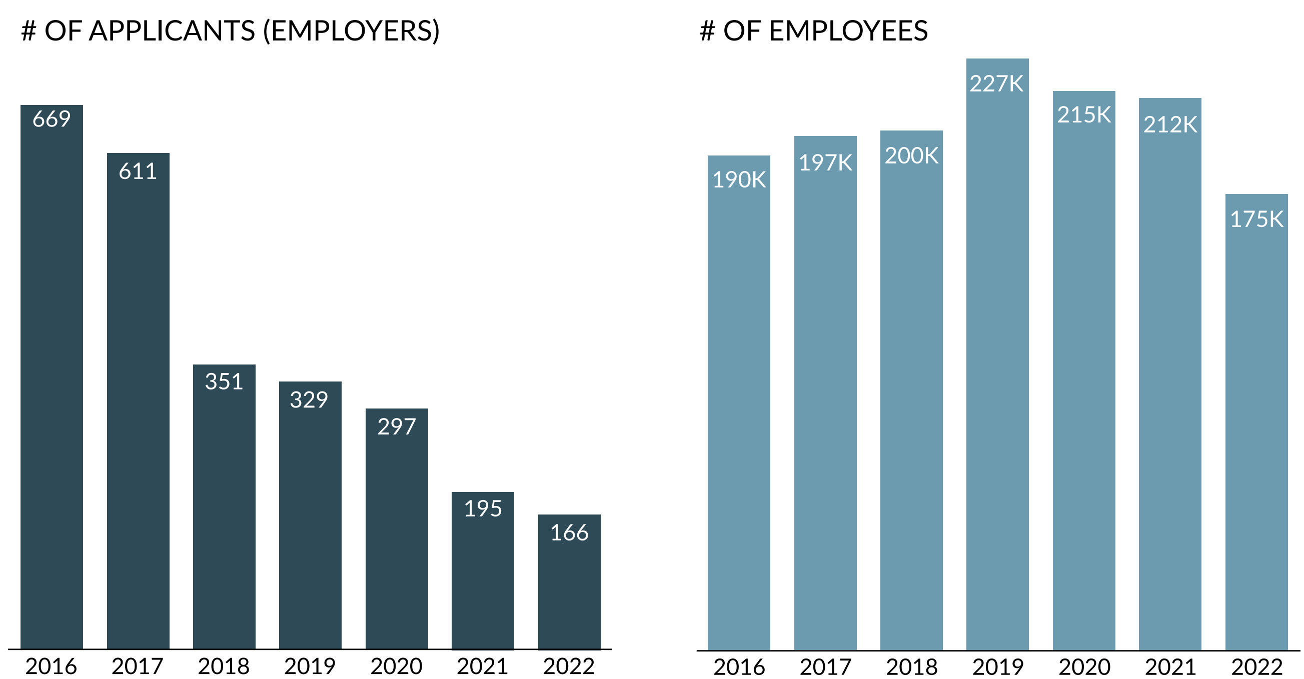
The number of employers requesting a credit has declined, especially among smaller employers. Before the pandemic, the total amount of credit requested exceeded the state cap each year.

The number of credit applicants has declined, mainly among smaller employers

The number of employers applying for the credit declined between 2016 and 2020. A total of 669 employers applied for the credit in 2016. By 2020, this number dropped by 56% to 297.

During the COVID-19 pandemic, the number of employers requesting the CTR tax credit continued to fall. Because applications in one year reflect incentives paid in the previous year, the impacts of the pandemic are reflected in years 2021 and 2022, with a drop to 195 and 166 applications, respectively.

Exhibit 2.1: Credit applications declined sharply between 2016 and 2022 while total employment remained more steady



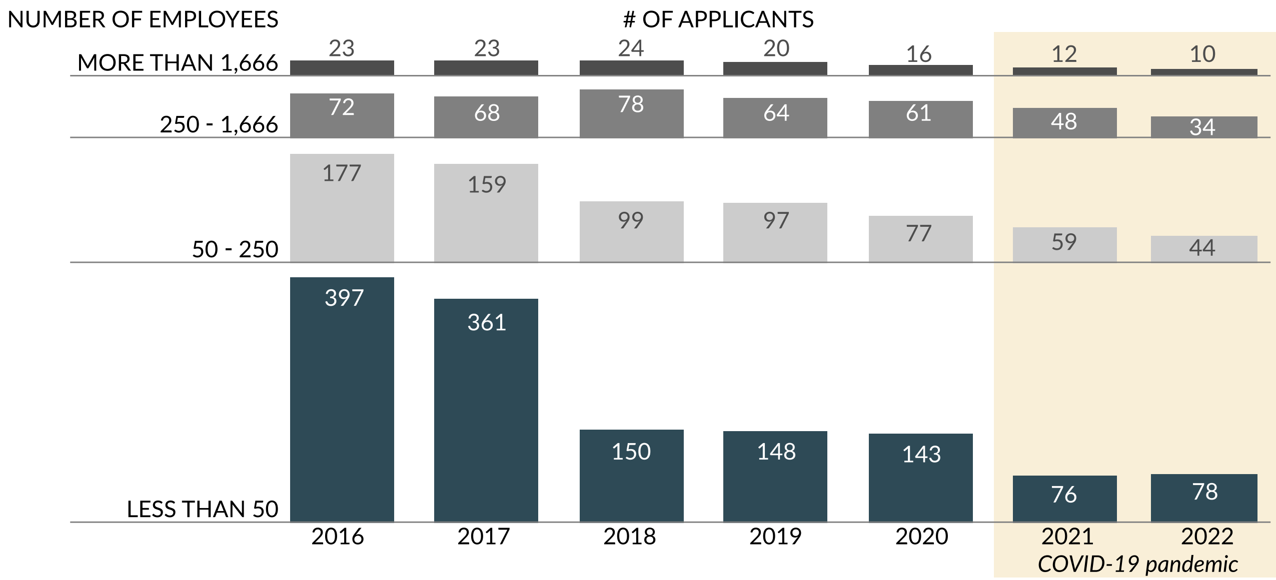
Source: JLARC staff analysis of CTR tax credit application data.

While the total number of applicants declined, the total number of employees covered in the applications was more stable. The decline in applications for the credit was concentrated among smaller employers. Between 2016 and 2020, the smaller employers had the largest percentage drop in applications:

- Employers with fewer than 50 employees declined by 254 (64%).
- Employers with 50-250 employees declined by 100 (56%).
- Employers with 250-1,666[5] employees declined by 11 (15%).
- Employers with more than 1,666 employees[6] declined by 7 (30%).

During 2021 and 2022, the number of applicants fell for both large and small employers, likely due to the impact of the COVID-19 pandemic.

Exhibit 2.2: Smaller employers had the largest drop in applications



Source: JLARC staff analysis of CTR tax credit application data.

Before the pandemic, credit requests exceeded the state cap each year

Between 2016 and 2020, the amount of credit requested exceeded the $2.75 million cap each year, and DOR was therefore required to prorate applications. During this time, employers reported paying between $24.7 million and $19.3 million per year in incentives to between 227,000 and 190,000 employees. Based on these incentive payments, employers:

- Requested between $5.7 million and $4.3 million in credits, reflecting the per employer and per employee limits.

[5] This is the maximum number of employees that an employer can claim for the tax credit (at $60 per employee) before reaching the employer cap of $100,000.

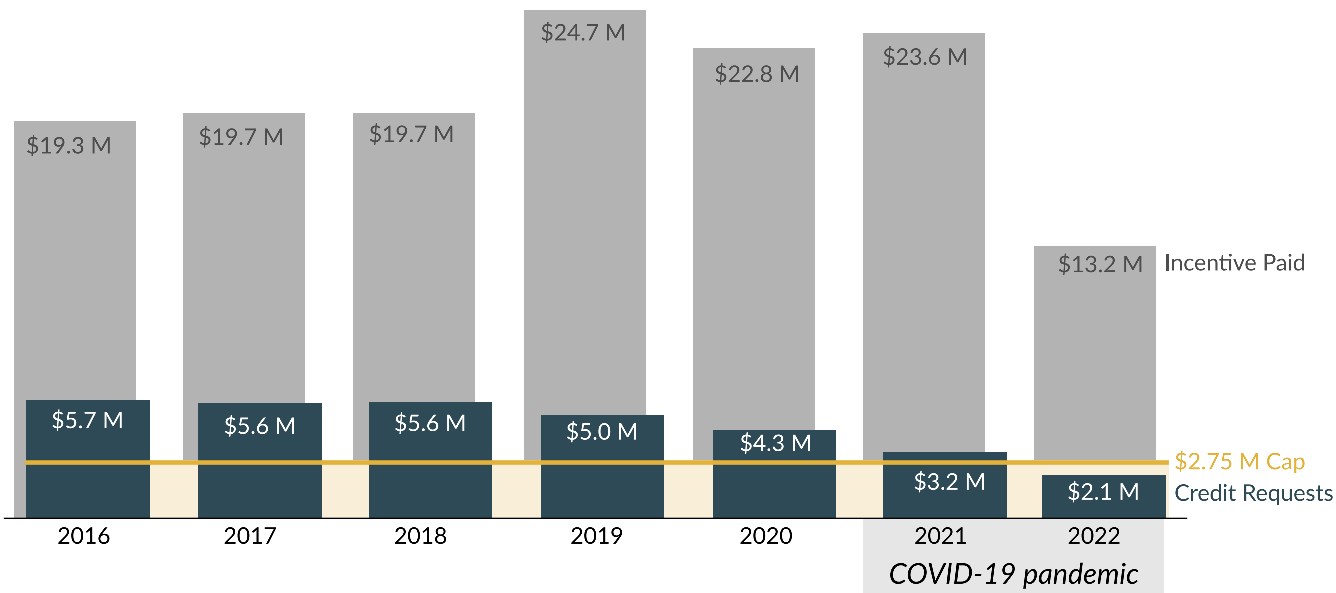
[6] In this report, these are referred to as "large employers."

- Received between 48% and 64% of the amount they requested.

As the number of applications declined during the pandemic, so did the amount by which DOR had to reduce credit awards.

- In 2021, employers received 86% of the amount they requested in credits.
- In 2022, DOR did not have to prorate applications because the amount requested did not exceed the state cap.

Exhibit 2.3: Credit requests exceeded $2.75 million cap until 2022



Source: JLARC staff analysis of CTR tax credit application data.

King County employers claim the majority of credits

An analysis of employer records suggests that beneficiaries of the CTR tax credit are concentrated in King County. Between 2016 and 2020, an average of 410 employers claimed the CTR tax credit and 83% of them have King County addresses. The King County employers also claimed 83% of the credits and employed 86% of employees reported on credit applications.

Some employers do not claim the full amount of credit they are allocated

Although DOR allocated $2.75 million in credit to applicants through 2021, not all of the applicants claimed their full credit allocation. Between 2017 and 2020, employers claimed an average $2.5 million of the $2.75 million allocated, or 91%. If employers owe less in taxes than the value of the credit they were awarded, they cannot claim the full amount they were allocated.

Exhibit 2.4 shows JLARC staff's estimate of beneficiary savings from the tax credit. Estimates for future years are based on the recent history of credit requests, including the following assumptions:

- Employers will continue to request less than the full $2.75 million in credits in fiscal years 2022 and 2023.
- Employers will again request the full amount in fiscal year 2024, several years after the start of the pandemic. The preference is scheduled to expire July 1, 2024.
- B&O tax credit claims will make up 94% of applicants and PUT claims will be 6% of applicants.
- 91% of allocated credits will be claimed.

Exhibit 2.4: Estimated beneficiary savings in the next two biennia are below $2.75 million annual state cap

Biennium	Fiscal Year	B&O Tax CTR Credit	PUT CTR Credit	Total Estimated Beneficiary Savings
2021-23 *7/1/21-6/30/23*	2022	$1,800,000	$110,000	$1,910,000
	2023	$2,100,000	$120,000	$2,220,000
2023-25 *7/1/23-6/30/25*	2024	$2,400,000	$140,000	$2,540,000
	2025	$0	$0	$0
2025-27 *7/1/25-6/30/27*	2026	$0	$0	$0
	2027	$0	$0	$0
	Estimated 2025-2027 Biennial Savings	$0	$0	$0

Source: JLARC staff analysis of DOR tax return data. Preference is scheduled to expire July 1, 2024.

3. Credit likely has limited influence

The tax credit likely has limited influence on the incentives provided. Employers pay more than the amount reimbursed through the credit and offer incentives for other reasons.

When the Legislature extended the preference in 2015, it stated that the preference encourages employers to offer their employees financial incentives to use commute alternatives. JLARC staff identified several factors that suggest the tax credit has limited influence on the amount of incentives employers offer.

The credit reimburses an average of 6% of incentive payments reported by large employers, and 30% for smaller employers

From 2016-2022, employers were reimbursed for a fraction of the amount they paid in financial incentives. As discussed in section 2, there are several statutory limits on the amount of credit employers can receive:

- 50% of the amount paid for incentives.
- $60 per employee.
- $100,000 per employer.
- $2.75 million state cap.

These limits have impacted large and small employers in different ways. The per-employer credit cap affects a small group of employers with more than 1,666 employees (see box). These large employers represent just 5% of the applicant pool, but 73% of the employees reported on CTR tax credit applications between 2016 and 2022.

Why 1,666 employees?

- Employers can apply for up to $60 per employee.
- Credit claims are capped at $100,000 per employer.
- 1,666 is the maximum possible number of employees before reaching the $100,000 cap.

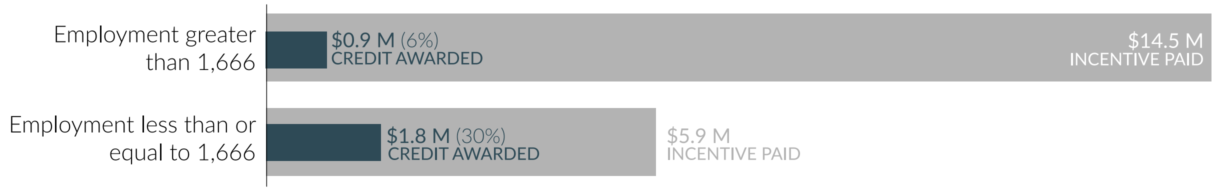
Fewer small employers are requesting the credit despite benefitting from a higher reimbursement rate

From 2016-22, large employers were awarded an average of $900,000 in CTR tax credits per year, which reimbursed 6% of the $14.5 million in reported annual incentive payments.

Smaller employers[7] are not affected by the per-employer cap. As a result, the credit reimburses a greater share of the incentives they report paying to employees. During the same period, they averaged $1.8 million in credits, reimbursing 30% of the average $5.9 million they paid in incentives.

Exhibit 3.1: Large employers are reimbursed for less of their costs than smaller employers

[7]Employers with fewer than 1,666 employees.



Source: JLARC staff analysis of CTR tax credit application data (2016-2022 average).

As discussed in section 2, the number of credit applicants declined 56% from 2016 to 2020. Further, the decline is concentrated among smaller employers not subject to the per-employer cap. The number of employers with fewer than 250 employees declined by 62% between 2016-20, despite the relatively higher reimbursement rate when compared to large employers. These trends suggest the value of the credit may have limited influence on employer decisions about offering incentives.

Employers report spending more on employee incentives than they request in credits

The ORCA **Business Passport** is a comprehensive, annual transportation pass program for employers with 5 or more employees in the greater Puget Sound area.

- Employers must cover 50%[8] of the cost for all benefit-eligible staff.
- Businesses with over 500 employees can customize their transportation pass program, allowing them to opt out of certain services.

Employers can report spending up to $120 per employee on the CTR tax credit applications. JLARC staff analysis found that employers provide financial incentives beyond what they report. This suggests that the actual reimbursement rate for large and small employers is less than 6% and 30%, respectively.

JLARC staff surveyed employers that applied for the credit in 2019. Respondents reported spending an average of $335 per employee on commute trip reduction incentives, with 85% of respondents spending more than $120 per employee. JLARC staff asked if the CTR tax credit increased the amount of financial incentives provided to employees:

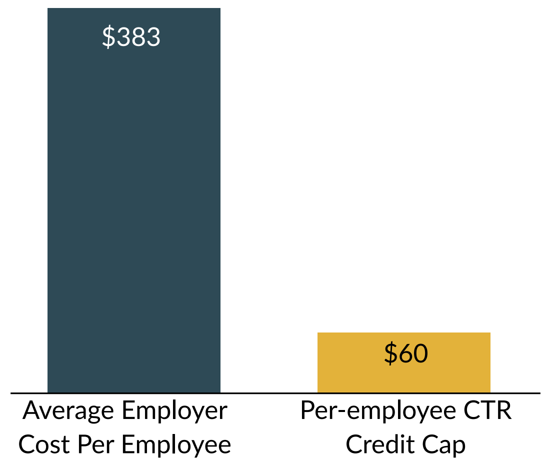
- 20% of survey respondents stated the credit increased the amount of incentives they offer.
- 49% stated the credit was not a factor.
- 31% were uncertain if it was a factor.

[8]Most employers report covering 100% of the cost.

JLARC's survey results are supported by data from King County's ORCA[9] Business Passport program (see box) which indicates that employers spent more than three times the amount for which they could request credit. In 2020, 455 employers with between 5-500 employees spent an average of $383 per employee on transit passes. This total includes 34 employers that requested the credit.

Employers with 500 or more employees with ORCA customized transportation pass programs also spend more on transit than can be reimbursed by the credit. In 2019, 58 such private employers, including 29 that requested the credit, spent $53 million on ORCA passports, nearly 20 times the statewide credit cap of $2.75 million.

Exhibit 3.2: Employers paid an average of $383 per employee for the ORCA Business Passport program in 2020



Source: JLARC staff analysis of King County Metro Transit data.

Employers offer incentives for reasons unrelated to the tax credit

The data above indicates that employers are spending more on incentives than can be reimbursed by the CTR tax credit. There are other reasons employers choose to offer incentives that are unrelated to the tax credit:

- **Local mandates**: Seattle modified its CTR law in 2019 to require worksites with 100 or more employees to provide financial incentives for commute alternatives
- **Recruitment and retention**: Commute incentives are often part of employee compensation packages and may include benefits outside the scope of the CTR tax credit (e.g., reimbursement for bicycle purchases).
- **Sustainability and traffic demand management**: Employers use commute incentives to reduce their carbon footprints and manage vehicle traffic around their campuses. The University of Washington, for example, is required to limit the number of vehicles on campus through an agreement with the city of Seattle.

4. Fewer Washingtonians drive to work alone

The share of Washingtonians using commute alternatives increased from 27.5% to 29.2% between 2015 to 2019,

[9]One Regional Card for All.

though it is unclear how much the CTR program and the credit contributed to this change

The Legislature stated two main goals for the tax credit in its performance statement:

1. Increase the percentage of Washingtonians using commute alternatives.

2. Reduce traffic congestion, automobile-related air pollution, and energy use by changing the way employees commute to work.

Data from the U.S. Census and from the Washington Department of Transportation's CTR program indicate these policy objectives are being met. These data sources include both credit users and nonusers and identify trends in the use of commute alternatives and the impact of those trends on the environment.

U.S. Census and CTR survey data show that more Washingtonians are using commute alternatives

Two related data sources show that Washingtonians are using commute alternatives more frequently than in the past.

- American Community Survey data compiled by the U.S. Census Bureau shows the use of commute alternatives among all Washingtonians.
- WSDOT's Commute Trip Reduction program survey data shows use of commute alternatives among CTR program participants.

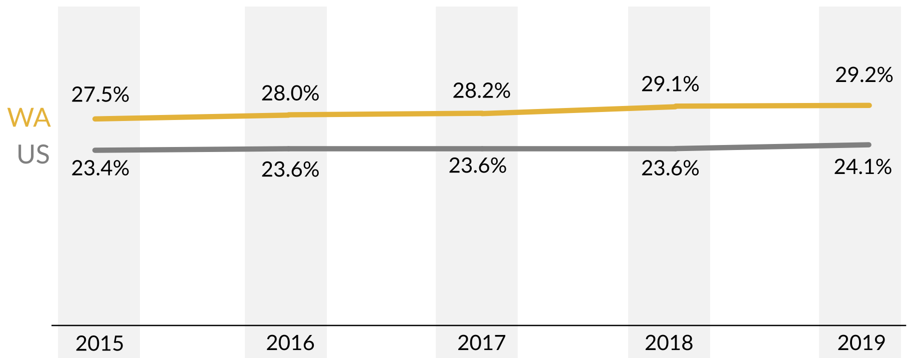
American Community Survey: More residents across the state are using commute alternatives

Survey data shows Washington's use of commute alternatives, including telework[10], is ahead of the national average. The percentage of Washingtonians commuting to work by a means other than driving alone increased by 1.7 percentage points between 2015 and 2019. During this same period, the measure for the country as a whole also improved, but by a relatively smaller margin (0.7 percentage points).

Because the COVID-19 pandemic complicated its survey methodology, the American Community Survey published experimental data for 2020 and cautioned against comparing to prior years. Due to this caution, 2020 data is not included in Exhibit 4.1, below. The experimental data does suggest the use of commute alternatives, including telework, increased sharply in 2020 – to 37.2% in Washington, and to 31% in the rest of the country.

Exhibit 4.1: More Washingtonians are using commute alternatives each year

[10]Telework is considered a commute alternative in the survey data, but it is not a reimbursable expense for the tax credit.



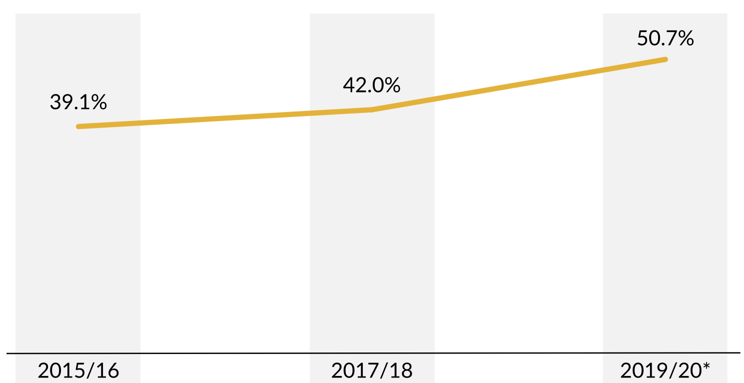
Source: JLARC staff analysis of American Community Survey 1-year estimates.

CTR Employee Survey: Employees at CTR worksites are more likely to use commute alternatives than the average employee statewide

The tax preference performance statement directs JLARC to use WSDOT's Commute Trip Reduction Program survey data to analyze whether more Washingtonians are using commute alternatives. Employees at CTR worksites are asked to complete surveys every two years about the way they travel to work.

The survey responses show an increase in the use of commute alternatives at CTR worksites and indicate employees at those sites use commute alternatives at a higher rate than the state average. The share of respondents using commute alternatives, including telework[11], has increased over the past three survey cycles, with a steep increase at the onset of the COVID-19 pandemic. WSDOT reports that the increase in 2019/20 likely reflects the increasing number of employees who began teleworking.

Exhibit 4.2: More employees at CTR sites are using commute alternatives, especially during the pandemic



***2019-20 survey cycle includes the start of the COVID-19 pandemic and represents responses from fewer CTR sites.**
Source: JLARC staff analysis of WSDOT - CTR employee survey data.

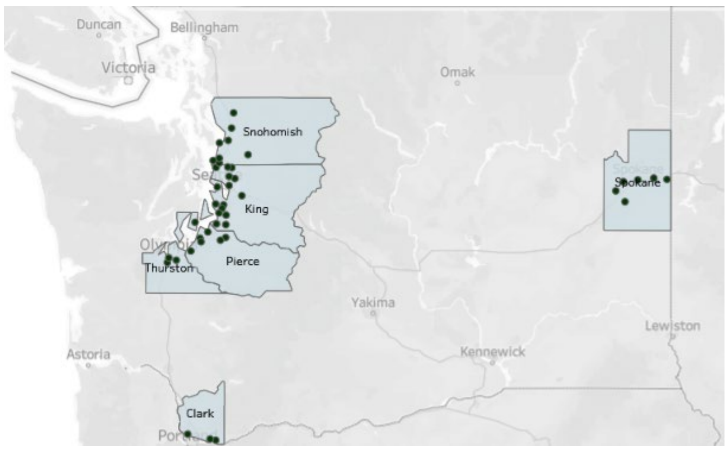
[11]Telework is considered a commute alternative in the survey data, but it is not a reimbursable expense for the tax credit.

CTR survey data suggests improvement in CTR program goals for traffic congestion, air quality, and gasoline consumption

JLARC staff further analyzed CTR employee survey data to identify:

- Characteristics of participating employers.
- Impact of CTR program on goals of easing congestion, improving air quality, and reducing gasoline consumption. The goals of the CTR program are almost identical to the goals for the tax credit.

Click the map image below to access an interactive dashboard that provides CTR-site detail by location.



In 2015-16 and 2017-18, more than 900 CTR worksites responded to the survey, reporting more than 560,000 employees. Fewer CTR work sites responded as the COVID-19 pandemic began. Data for the 2019-20 survey cycle reflects 800 CTR sites, and just over 500,000 employees.

JLARC staff compared the CTR sites to employers that claimed a CTR tax credit. Among 2017-18 respondents to the CTR employee survey, 30% were from worksites where the employers claimed the tax credit. These sites tended to be larger employers and represented 52% of all employees working at CTR sites.

Exhibit 4.3: Tax credit beneficiaries represent 30% of CTR sites, 52% of employees

	Claimed Tax Credit	Did Not Claim Credit
CTR Sites	277 (30%)	660 (70%)
Employees	313,398 (52%)	284,388 (48%)

Source: JLARC staff analysis of DOR - tax return data and WSDOT - CTR employee survey data from 2017-18.

Based on responses to the CTR survey, JLARC staff calculated statewide measures of annual vehicle-miles traveled, fuel consumed, and greenhouse gases emitted. Exhibit 4.6 shows these estimates and how commute alternatives have resulted in an overall reduction in each of these measures. The estimated decline in vehicle miles traveled equates to an annual reduction of 15 gallons of fuel consumed and 0.13 metric tons of greenhouse gases emitted per employee from 2015-16 to 2017-18.

Exhibit 4.4: Survey results for all CTR sites indicate a per-employee reduction in miles traveled, fuel consumed, and carbon emissions

Survey Cycle	Vehicle-miles traveled (miles)	Fuel consumed (gallons)	CO2 Emissions (metric tons)	Change from prior cycle
2015-16	4,645	217	1.95	
2017-18	4,326	202	1.82	↓
2019-20*	3,359	157	1.41	↓

***2019-20 survey cycle includes the start of the COVID-19 pandemic and represents responses from fewer CTR sites.**
Source: JLARC staff analysis of WSDOT - CTR employee survey data.

CTR programs may reduce negative impacts of commuting, but it is difficult to measure the influence of Washington's CTR program or the CTR tax credit

The Legislature directed JLARC to use the CTR survey data to analyze whether the tax credit helped to reduce traffic congestion, air pollution, and energy use. While the survey results show reductions across these measures, it is difficult to know the extent to which the tax credit influenced those reductions. The CTR survey data is a sample of commuters who may or may not work for employers claiming the tax credit. They also may not be representative of the state as a whole. National research indicates that the influence of commuting behavior is most effectively measured on a local level. The effects of some commute reduction strategies may be heavily determined by whether:

- Public transit is widely available.
- Parking is limited and fee-based.
- Other activities and services can be reached from worksites without a personal vehicle.

For these reasons, it is unclear to what extent the CTR program and tax credit influenced the overall reduction in congestion, pollution, and energy use.

5. Applicable statutes

RCW 82.70 and tax preference performance statement

Definitions. (Expires July 1, 2024.)

RCW 82.70.010

The definitions in this section apply throughout this chapter and *RCW 70.94.996 unless the context clearly requires otherwise.

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(3) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor.

(4) "Public agency" means any county, city, or other local government agency or any state government agency, board, or commission.

(5) "Public transportation" means the same as "public transportation service" as defined in RCW 36.57A.010 and includes passenger services of the Washington state ferries.

(6) "Ride sharing" means the same as "ride sharing" as defined in RCW 46.74.010, including ride sharing on Washington state ferries.

(7) "Telework" means a program where work functions that are normally performed at a traditional workplace are instead performed by an employee at his or her home at least one day a week for the purpose of reducing the number of trips to the employee's workplace.

Tax credit authorized. (Expires July 1, 2024.)

RCW 82.70.020

(1) Employers in this state who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to their own or other employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before January 1, 2024, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per employee per fiscal year.

(2) Property managers who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to persons employed at a worksite in this state managed by the property manager for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before January 1, 2024, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of these persons for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per person per fiscal year.

(3) The credit under this section is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. No refunds may be granted for credits under this section.

(4) A person may not receive credit under this section for amounts paid to or on behalf of the same employee under both chapters 82.04 and 82.16 RCW.

(5) A person may not take a credit under this section for amounts claimed for credit by other persons.

Notes: Tax preference performance statement - 2015 3rd sp.s. c 44

This section is the tax preference performance statement for the tax preference contained in RCW 82.70.020. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to reduce traffic congestion, automobile-related air pollution and energy use through employer-based programs that encourage the use of alternatives to the single-occupant vehicle traveling during peak traffic periods for the commute trip. It is the legislature's intent to extend the commute trip reduction tax credit, which encourages employers to provide financial incentives to their employees for using ride sharing, public transportation, car sharing, or nonmotorized commuting. Pursuant to chapter 43.136 RCW, the joint legislative audit and review committee must review the commute trip reduction tax credit established under RCW 82.70.020 by December 1, 2024.

(3) If a review finds that the percentage of Washingtonians using commute alternatives is increasing, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preferences.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee should refer to the office of financial management's results Washington sustainable transportation performance metric or data used by the department of transportation's commute trip reduction program.

Application for tax credit. (Expires July 1, 2024.)

RCW 82.70.025

(1) Application for tax credits under this chapter must be received by the department between the first day of January and the 31st day of January, following the calendar year in which the applicant made payments to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting. The application must be made to the department in a form and manner prescribed

by the department. The application must contain information regarding the number of employees for which incentives are paid during the calendar year, the amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, and other information required by the department.

(2) The department must rule on the application within sixty days of the deadline provided in subsection (1) of this section.

(3)(a) The department must disapprove any application not received by the deadline provided in subsection (1) of this section except that the department may accept applications received up to fifteen calendar days after the deadline if the application was not received by the deadline because of circumstances beyond the control of the taxpayer.

(b) In making a determination whether the failure of a taxpayer to file an application by the deadline was the result of circumstances beyond the control of the taxpayer, the department must be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(4) After an application is approved and tax credit granted, no increase in the credit is allowed.

(5) To claim a credit under this chapter, a person must electronically file with the department all returns, forms, and other information the department requires in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

False statement in application—Penalty. (Expires July 1, 2024.)

RCW 82.70.030

Any person who knowingly makes a false statement of a material fact in the application required under RCW 82.70.025 for a credit under RCW 82.70.020 is guilty of a gross misdemeanor.

Tax credit limitations. (Expires July 1, 2024.)

RCW 82.70.040

(1)(a) The department must keep a running total of all credits allowed under RCW 82.70.020 during each fiscal year. The department may not allow any credits that would cause the total amount allowed to exceed $2,750,000 in any fiscal year.

(b) If the total amount of credit applied for by all applicants in any year exceeds the limit in this subsection, the department must ratably reduce the amount of credit allowed for all applicants so that the limit in this subsection is not exceeded. If a credit is reduced under this subsection, the amount of the reduction may not be carried forward and claimed in subsequent fiscal years.

(2)(a) Tax credits under RCW 82.70.020 may not be claimed in excess of the amount of tax otherwise due under chapter 82.04 or 82.16 RCW.

(b) Through June 30, 2005, a person with taxes equal to or in excess of the credit under RCW 82.70.020, and therefore not subject to the limitation in (a) of this subsection, may elect to defer tax credits for a period of not more than three years after the year in which the credits accrue. For credits approved by the department through June 30, 2015, the approved credit may be carried forward and used for tax reporting periods through December 31, 2016. Credits approved after June 30, 2015, must be used for tax reporting periods within the calendar year for which they are approved by the department and may not be carried forward to subsequent tax reporting periods. Credits carried forward as authorized by this subsection are subject to the limitation in subsection (1)(a) of this section for the fiscal year for which the credits were originally approved.

(3) No person may be approved for tax credits under RCW 82.70.020 in excess of $100,000 in any fiscal year. This limitation does not apply to credits carried forward from prior years under subsection (2)(b) of this section.

(4) No person may claim tax credits after June 30, 2024.

Fund transfer. (Expires January 1, 2025.)

RCW 82.70.050

The director must on the 25th of February, May, August, and November of each year advise the state treasurer of the amount of credit taken under RCW 82.70.020 during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

Commute trip reduction board. (Expires July 1, 2024.)

RCW 82.70.060

The commute trip reduction board must determine the effectiveness of the tax credit under RCW 82.70.020 as part of its ongoing evaluation of the commute trip reduction law. The department must provide requested information to the commute trip reduction board for its assessment.

Administration. (Expires July 1, 2024.)

RCW 82.70.070

Chapter 82.32 RCW applies to the administration of this chapter.

Expiration of chapter. (Expires July 1, 2024.)

RCW 82.70.900

Except for RCW 82.70.050, this chapter expires July 1, 2024.

RECOMMENDATIONS & RESPONSES

Legislative Auditor's Recommendation

The Legislative Auditor recommends continuing and modifying the preference

The Legislature should continue and modify the preference. Although more Washingtonians are using commute alternatives, the tax credit likely has limited influence on the amount of incentives that employers provide and on employee use of commute alternatives. Modifications to the credit might include:

- **Amending the preference to further reduce single-occupant vehicle travel.** The Legislature may consider options such as increasing the benefit for smaller employers whose use of the preference has declined, targeting new employers, or targeting employers outside of King County. The Legislature should consult with the Department of Transportation when developing amendments. The Department's expertise in administering the Commute Trip Reduction program could help inform any modifications.
- **Alternatively, the Legislature could recategorize the preference as one intended to provide tax relief to employers providing financial incentives for commute alternatives**. If the Legislature chooses to do so, it should consider changing its objective from increasing use of commute alternatives to one that focuses on increasing the number of businesses providing incentives to their employees.

Legislation Required: Yes

Fiscal Impact: Depends on legislation. Impact could be up to $5.5 million per biennium if the credit is extended as currently structured.

Letter from Commission Chair

Available on Citizen Commission website October 2022.

Commissioners' Recommendation

Available on Citizen Commission website October 2022.

Agency Response

If applicable, available on Citizen Commission website October 2022.

MORE ABOUT THIS REVIEW

Study questions

Click image to view PDF of proposed study questions.

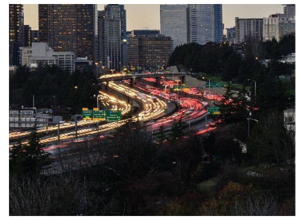
Washington JLARC

PROPOSED STUDY QUESTIONS
Commute Trip Reduction Tax Credit (Multiple Taxes)

State of Washington Joint Legislative Audit and Review Committee

September 2021

JLARC to review two preferences for employers that provide financial incentives for commute alternatives



The 2015 Legislature extended a Business & Occupation (B&O) Tax credit and a Public Utility Tax credit to offset the cost of commute trip reduction incentives.

This preference is included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences, and the review is mandated by 2015 legislation extending the credits.

B&O and Public Utility tax credits intended to encourage commute alternatives

Employers with 100 or more full-time employees in Washington must develop a commute trip reduction (CTR) program. The intent is to reduce travel in single-occupancy vehicles to major worksites. Those with fewer than 100 employees can elect to develop a program.

Employers may provide financial incentives to encourage employees to use commute alternatives, such as ride sharing, public transportation, car sharing, or non-motorized commuting. The tax credits offset up to 50% of the incentive cost, up to $60 per employee. Employers are not required to have a CTR program to claim the tax credits.

The 2015 Legislature extended the preferences through 2023, stating a public policy objective to reduce traffic congestion, automobile-related air pollution and energy use. The preferences are intended to encourage employers to provide financial incentives to employees who use commute alternatives.

If a JLARC review finds that the percentage of Washingtonians using commute alternatives increased, the Legislative Auditor is to recommend extending the preferences.

JLARC staff to address the following questions to evaluate the preferences:

1. How many employers have CTR programs, how many claim the tax credits, and how many employees do they cover?
2. What is the value of the tax credits and how does this compare to the amount of financial incentives that employers provide to their employees?
3. Have employer CTR programs contributed to measurable reductions in traffic congestion, automobile-related air pollution, and energy use? To what extent can any reductions be attributed to the tax credits?
4. How has the percentage of Washingtonians using commute alternatives changed since 2015?

Study Timeframe

Preliminary Report: July 2022 **Proposed Final Report:** December 2022

Study Team

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JLARC Study Process

Study Mandate — Budget, legislation, committee direction → **Proposed Study Questions** → Legislative Auditor's Preliminary Report → **For Tax Preferences:** • Citizen Commission meeting • Public testimony • Commission adopts comments → Legislative Auditor's Proposed Final Report — Agency response included → Final Report — Option to append committee comment

Committee votes to distribute completed audit

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