2024 Tax Preference Review:

Public utility tax credit for home energy assistance

24-05 FINAL REPORT | DECEMBER 2024

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Legislative Auditor's conclusion

Utilities are providing more home energy assistance to low-income families, but the tax credit likely does not influence the amount of energy assistance provided.

Key points

- Electric and gas utilities can request a public utility tax credit for up to 50% of the energy assistance they give to low-income customers.
- Statute caps the total credit at $2.5 million per year. This amount is allocated to about 60 utilities that receive federal home energy grants for their low-income customers.
- Half of these utilities provide additional energy assistance and claim almost all the available credit each year.
- The tax preference likely does not influence the amount of energy assistance provided. Beneficiaries provided $76 million in energy assistance in 2023. The credit reimbursed 3.3% of that amount.
- Statutory changes in 2019 and 2021 require utilities to provide energy assistance to low-income customers.

About this preference

Estimated savings: $5 million (2027-29 biennium)
Expiration date: None

Tax type: Public Utility Tax
Applicable statute(s): RCW 82.16.0497

Executive summary

Electric and gas utilities that receive federal energy assistance grants are eligible to apply for the public utility tax credit. These utilities must provide additional utility-funded energy assistance through either:

- Billing discounts to low-income customers, and/or
- Qualifying contributions to Community Action Agencies that partner with the Department of Commerce (Commerce) to administer the federal Low Income Home Energy Assistance Program (LIHEAP).

Statute caps the total credit at $2.5 million per year. About half of utilities that receive federal grants claim the credit.

Each year, the Department of Revenue (DOR) allocates the total credit among about 60 utilities.

- The allocations are called base credits. They have ranged from $14 to $930,000 per utility.
- Allocations are based on the share of federal LIHEAP funds each utility received in the previous fiscal year.
- A utility may apply for a tax credit of up to 50% of additional utility-funded energy assistance it provides each year. The credit cannot exceed its base credit amount. If a utility does not apply for its base credit, it is redistributed among utilities that did apply.
- Between 29 and 33 utilities provided additional energy assistance and claimed the credit from 2018 to 2023. Together, they claimed nearly all the available funds.

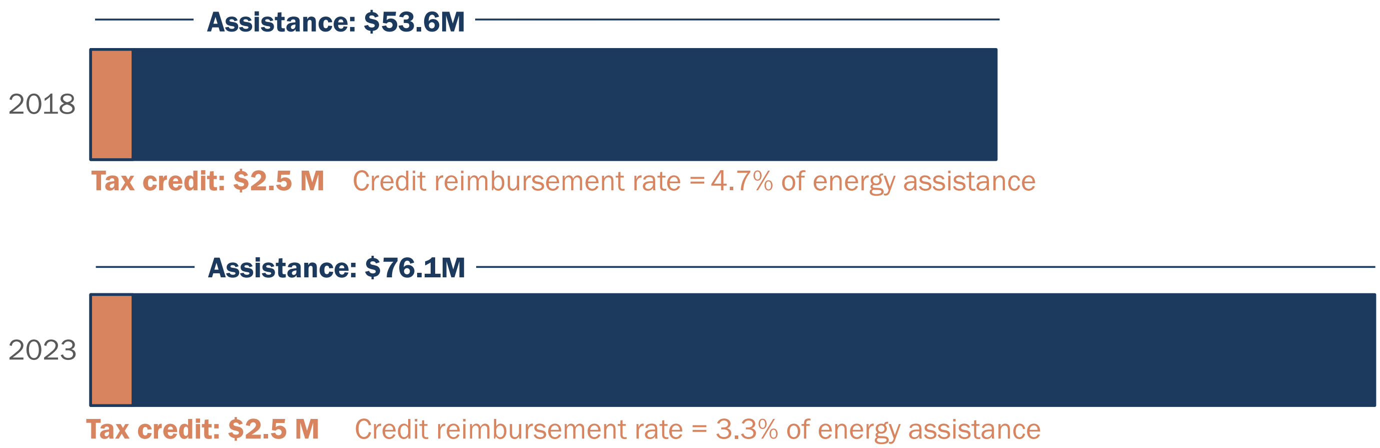
Utilities that serve more customers tend to receive more federal LIHEAP funds. As a result, these larger utilities receive most of base credit allocations. The seven utilities with the largest LIHEAP grant amounts had base credit allocations totaling $1.9 million (78% of the total).

Tax credit reimburses an average of 3.3% of energy assistance costs

Although the credit allows reimbursement of up to 50% of qualifying energy assistance, the statewide cap of $2.5 million limits tax credit claims.

- From fiscal year 2018 to 2023, the amount of energy assistance reported by beneficiaries grew 42%, from $53.6 million to $76.1 million.
- Because the cap remained the same, the actual reimbursement rate fell from 4.7% to 3.3% of energy assistance costs.

Figure 1: Credit reimbursement rate diminishes as energy assistance grows



Source: JLARC staff analysis of tax credit application data

The tax credit likely does not influence the amount of energy assistance provided

Inferred Objective	Results
Incentivize electric and gas utility companies to provide additional energy assistance to low-income customers.	**Not Achieved.** Although tax preference beneficiaries report increasing amounts of energy assistance, the credit is likely of limited influence.

In interviews, most utilities that claim the credit stated that while they appreciate the availability of the credit, it did not influence how much assistance they provide.

As noted above, about half of utilities do not claim the credit. This suggests that the credit does not incent utilities to provide additional energy assistance. A 2023 Commerce report (**Appendix B**) notes that whether a utility offers utility-funded energy assistance largely depends on the utility's type and size.

Statute requires utilities to provide energy assistance to low-income customers

Recent statutory changes require electric and gas utilities to provide energy assistance to low-income customers. Such requirements may have a larger influence on whether utilities provide energy assistance.

- The Clean Energy Transformation Act (CETA), enacted in 2019, requires that electric utilities make funding available for low-income bill assistance.
- The statute governing investor-owned utilities, as amended in 2021, requires them to offer discounts to low-income customers. It also allows these utilities to recover the cost by charging higher rates to other customers.

Legislative Auditor's recommendation

The Legislature should state public policy objectives and, if applicable, set performance metrics.

- If the Legislature's objective is to encourage utilities to offer more utility-funded energy assistance, it should consult with the Department of Commerce to identify changes that achieve that goal. Possible options include increasing the amount of the credit or amending the qualification criteria.
- Alternatively, if the Legislature's objective is providing tax relief, it should categorize the preference as one intended to do so.

The Department of Commerce does not concur with the recommendation. Instead, Commerce recommends terminating the preference. You can find additional information in the **Recommendations section**.

Commissioner's Recommendation

The commission endorses the Legislative Auditor's recommendations without comment.

Committee action to distribute report

On December 4, 2024 this report was approved for distribution by the Joint Legislative Audit and Review Committee. Action to distribute this report does not imply the Committee agrees or disagrees with Legislative Auditor recommendations.

Part 1.
LIHEAP

The federal Low Income Home Energy Assistance Program (LIHEAP) provides home energy assistance to low-income households so they can maintain affordable, dependable utility services and avoid disconnection.

- LIHEAP is a federal block grant program.
- The Department of Commerce (Commerce) administers LIHEAP in Washington. It distributes funds through a network of Community Action Agencies.
- Community Action Agencies take customer applications, review eligibility, and distribute the funds to utilities to reduce the energy bills of the eligible customers.

Tax credit for utilities is allocated based on LIHEAP funding amounts

The tax credit is available to electric and gas utilities that offer utility-funded energy assistance to their customers in addition to LIHEAP. Energy assistance includes discounted energy bills for low-income households and contributions to Community Action Agencies.

Utilities cannot claim the tax credit for LIHEAP-funded assistance. However, DOR determines how much tax credit each utility may take based on the proportion of total LIHEAP energy assistance grants it receives. Part 2 describes this allocation process.

Figure 2: Commerce and Community Action Agencies (CAAs) administer federal LIHEAP grant funds. DOR uses the information for tax credit allocations.

LIHEAP Grant Process			Tax credit allocation
Commerce	Community Action Agencies	Utilities	DOR
Receives Federal Block grant. Transfers LIHEAP grants to Community Action Agencies.	Take customer applications, determine eligibility. Transfer grants to utilities.	Receive grants from CAAs. Apply them to customer accounts.	Allocates tax credits proportionally based on relative share of LIHEAP grants.

Source: JLARC staff analysis of U.S.-HHS and WA Department of Commerce documentation, RCW 82.16.0496

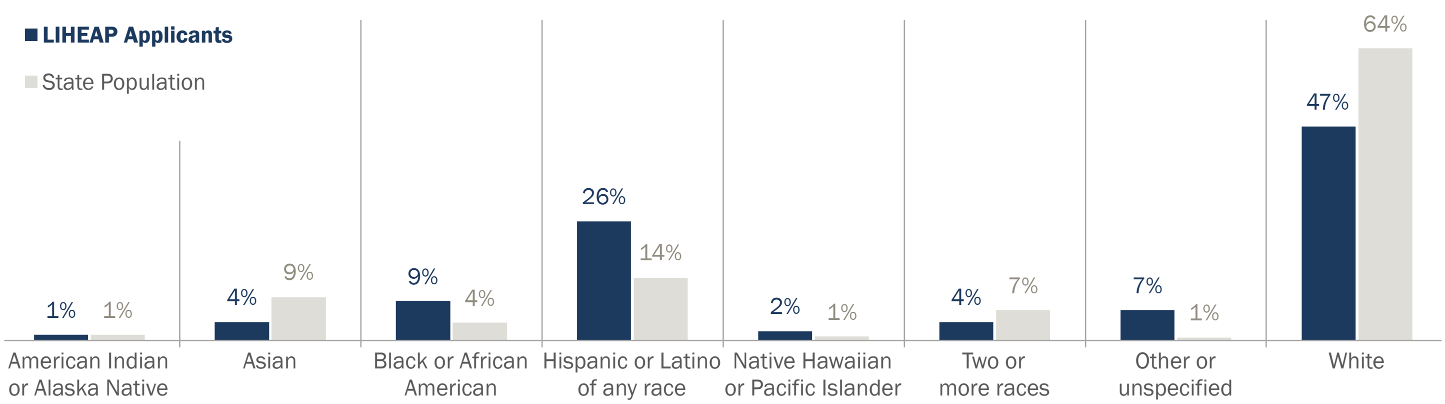
Households that apply for LIHEAP have, on average, a different racial and ethnic makeup than state average

When households apply for LIHEAP assistance, they are asked to submit demographic information about each household member. Joint Legislative Audit and Review Committee (JLARC) staff summarized data comprising 163,000 people in nearly 70,000 households who applied for LIHEAP benefits in the 2023 program year. We then compared it to 2020 decennial census data for the state.

In general, LIHEAP applicants identify as Hispanic/Latino of any race, Native Hawaiian or Pacific Islander, or Black or African American in higher proportion than the state population. LIHEAP applicants identify as white, Asian, or of two or more races in lower proportion than the state population. Seven percent of LIHEAP applicants either reported their race as “other” or did not specify a race. The decennial census data shows 1% of the population is of some other race but does not include an “unspecified” category.

When utilities claim the credit for billing discounts, they may do so only for discounts provided to customers who applied for and qualified for LIHEAP. Thus, demographic data about LIHEAP applicants describes the portion of the Washington population for whom the credit is intended to incent home energy assistance.

Figure 3: More LIHEAP applicants identify as Hispanic/Latino of any race, Native Hawaiian or Pacific Islander, or Black or African American than state average



Source: JLARC staff analysis of LIHEAP application data, OFM Forecasting: 2020 Decennial Census data

Part 2.
Credit allocations

Electric and gas utilities that provide energy assistance to low-income customers may claim a public utility tax credit for up to 50% of the energy assistance they provide. Energy assistance includes billing discounts and qualifying contributions.

- **Billing discounts**: Eligible reductions in energy bills for customers who qualify and apply for LIHEAP. Incomes of eligible households may not exceed 150% of the federal poverty level, adjusted for household size.

- **Qualifying contributions**: Contributions to Community Action Agencies that partner with Commerce to administer LIHEAP.

The utility must pay for the energy assistance from its own funds to receive the tax credit. It may not receive a tax credit for LIHEAP-funded assistance or for amounts donated by utility customers.

The Legislature enacted the tax credit in 2001. The credit has no expiration date.

DOR allocates $2.5 million in credits among utilities

Statute caps the total credit at $2.5 million per fiscal year, except for a temporary increase to $5.5 million in fiscal year 2007.

Between May and August of each year, DOR allocates the $2.5 million in credits among utilities that received LIHEAP funds in the prior fiscal year. The process has four key steps:

1. Commerce reports to DOR the amount of LIHEAP funds each utility received.
2. DOR allocates the $2.5 million in credits to eligible utilities in proportion to the amount of LIHEAP energy assistance each utility received in the previous year. Statute defines this allocation as "base credit."
3. Utilities apply to DOR for the credit. Each utility may apply for up to 50% of the energy assistance it provided. Its claims cannot exceed the base credit. If a utility does not apply for its base credit, DOR redistributes its amount among utilities that did apply.
4. DOR notifies utilities of the amount of credit they can claim for the fiscal year.

Utilities must claim the credit in the year in which they are earned.

Allocation example

A utility received 10% of total LIHEAP energy assistance in fiscal year 2023. Its base credit for fiscal year 2024 would be 10% of $2.5 million, or $250,000.

If it spends this much on energy assistance:	It may apply for a tax credit of:
$400,000	$200,000
$500,000	$250,000
$600,000	$250,000

Utilities that serve more customers receive more base credit

The annual base credit for each utility ranged from $14 to $930,000 (2018-2024). **Appendix A** shows the base credit amounts for fiscal year 2024.

Utilities that serve more gas and electric customers tend to receive more federal LIHEAP funds. As a result, these larger utilities receive most of the base credit allocations.

- The seven utilities with the largest LIHEAP grant amounts had base credit allocations totaling $1.9 million (78% of the total). They are Puget Sound Energy, PacifiCorp, Clark Public Utilities, Snohomish County PUD, Avista, Tacoma Power, and Seattle City Light.
- The next 15 utilities had base credit allocations totaling $390,000 (16% of the total).
- The 40 utilities with the smallest LIHEAP grants received base credit allocations totaling $170,000 (7% of the total).

Figure 4: Seven large utilities receive 78% of base credit allocation

Note: Percentages shown do not add to 100 due to rounding

Source: JLARC staff analysis of DOR base credit allocation data

Part 3.
Credit use

When the utility applies for the base credit, it must state the amount of energy assistance it provided in the current fiscal year and the amount it anticipates providing in the next fiscal year. Billing discounts and qualifying contributions must be reported separately.

Utilities claim nearly all available credits each year

Between them, beneficiaries claimed nearly all the available credit each year.

Based on these past tax credit claims, JLARC staff expect that beneficiaries will continue to claim the full $2.5 million per year. JLARC staff also estimate future beneficiary savings will be $5 million per biennium.

Figure 5: Beneficiaries claimed 98 to 100% of available credit each year

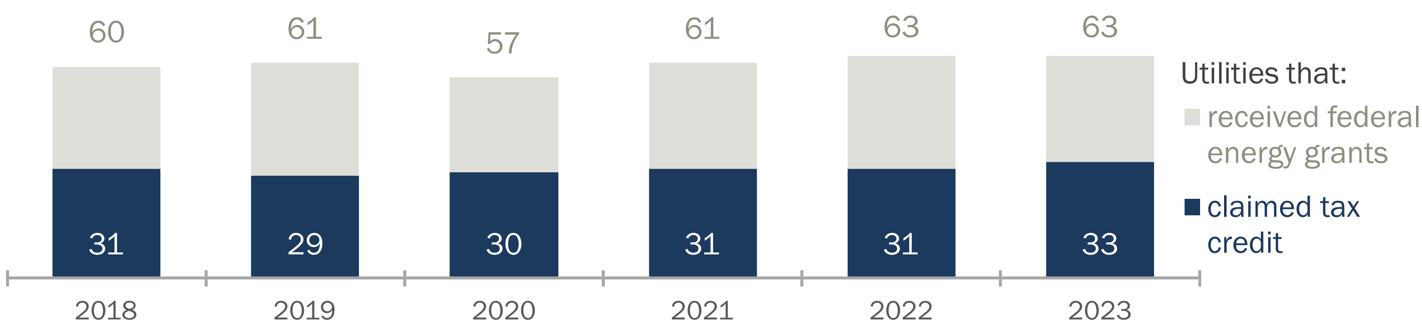
Fiscal Year	2018	2019	2020	2021	2022	2023
Credits claimed	$2,499,670	$2,500,000	$2,500,000	$2,500,000	$2,442,896	$2,496,213

Source: JLARC staff analysis of DOR tax return data

Half of the utilities that receive federal energy grants claim the tax preference

Each year, DOR allocates base credit to about 60 utilities. If a utility provides additional utility-funded energy assistance and applies to DOR, it can claim the credit. Between 2018 and 2023, an average of 31 utilities claimed the credit each year (48-54%).

Figure 6: Half of utilities claim credits



Source: JLARC staff analysis of DOR tax return, base credit allocation data

Utilities that do not provide utility-funded energy assistance tend to be rural with more energy burdened households

In Commerce's first low-income energy assistance report published in 2023, it found that energy assistance programs largely depend on the type and size of the utility. For example, investor-owned utilities and large consumer-owned utilities tend to provide direct bill assistance and energy efficiency programs to all low-income customers. In contrast, smaller customer-owned utilities tend to be in rural counties and have fewer program offerings. These utilities also tend to have a greater percentage of energy burdened households than urban counties (see **Appendix B** for more detail).

Tax preference beneficiaries report increasing amounts of energy assistance

For utilities to claim the credit, they must provide utility-funded assistance that is at least 125% of the amount provided when it first began offering assistance.

- Billing discounts and qualifying contributions must each equal at least 125% of a utility's first year of energy assistance.

- The first year is the earlier of fiscal year 2000 or the first year the utility provided energy assistance.

Tax credit application data shows that beneficiaries report increasing amounts of energy assistance each year. These amounts exceed the level of assistance utilities offered in their first year.

- From fiscal year 2018 through 2023, the amount of energy assistance reported by beneficiaries grew 42%, from $54 million to $76 million.
- Total energy assistance exceeded the first-year amounts by 464% in fiscal year 2018 and by 673% in fiscal year 2023.

Example: Credit amount
The credit amount depends on the amount of energy assistance utilities provided initially and in the current year.

In fiscal year 2000, the utility funded:

- $100,000 in billing discounts.
- $10,000 in qualifying contributions.

In fiscal year 2023, it funded:

- $125,000 in billing discounts (125% of first year amount).
- $10,000 in qualifying contributions (100% of first year amount).

The utility may claim credit for its fiscal year 2023 billing discounts, but not for its qualifying contributions

Part 4.
Credit not influential

The Legislature did not state an objective when enacting the preference. Based on committee testimony from when it was enacted, JLARC staff infer that the objective is to incentivize electric and gas utility companies to provide additional energy assistance to low-income customers.

In interviews, staff from 22 utilities told JLARC staff that while they appreciate the availability of the credit, it did not influence how much energy assistance they provided.

Credit does not appear to incent half of the utilities that receive federal energy grants and do not claim the credit

About half of utilities that are allocated base credit do not claim the credit and do not report providing utility-funded energy assistance. This suggests that the credit does not incentivize these utilities to offer additional assistance to low-income households they serve. Statutory requirements to maintain the confidentiality of taxpayer information preclude JLARC staff from disclosing which utilities claimed the credit and which did not.

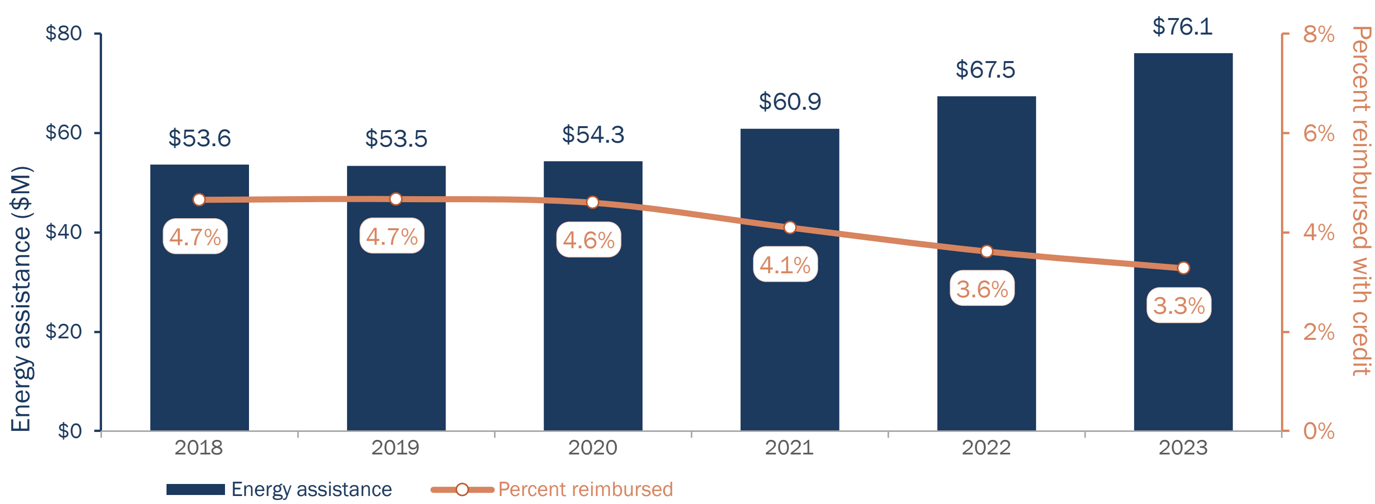
As mentioned, in **Part 3**, a 2023 report from Commerce suggests that the amount and availability of energy assistance largely depends on the type and size of the utility (**Appendix B**).

Credit reimburses decreasing share of energy assistance

The credit nominally reimburses 50% of qualifying energy assistance. However, the statewide cap remains at $2.5 million, so the credit reimburses a smaller portion as utilities offer more energy assistance.

- The credit reimbursed 4.7% of energy assistance costs in fiscal year 2018. In 2023, it reimbursed 3.3%.
- The percent varied by utility. The median reimbursement rate was 11%.

Figure 7: Credit reimbursement rate has fallen to 3.3%



Source: JLARC staff analysis of tax credit application data

Purchasing power of the credit has declined

The purchasing power of $2.5 million has declined because average energy prices have risen since the Legislature enacted the credit in 2001:

- The average retail electric price in Washington increased 80% between 2001 and 2022. It would require $4.5 million in 2022 to purchase the same amount of electricity as $2.5 million could purchase in 2001.

- The average residential natural gas price in Washington increased 31% between 2001 and 2022. It would require $3.3 million in 2022 to purchase the same amount of natural gas as $2.5 million could purchase in 2001.

Statutory changes in 2019 and 2021 may have more impact on energy assistance than the credit

Legislation enacted in 2019 and 2021 changed state policy on energy assistance and requires utilities to provide energy assistance to low-income customers. Legal requirements may have a larger effect on whether and to what extent utilities provide energy assistance.

2019: Clean Energy Transformation Act (CETA)

The 2019 Legislature enacted the Clean Energy Transformation Act, establishing a state policy to transition the state's electricity supply so that it is carbon-free by 2045 (E2SSB 5116, Ch. 288 Laws of 2019).

Among other provisions, CETA:

- Required electric utilities to make programs and funding available for low-income energy assistance.
- Increased the household income limits used to determine “low-income” status for determining energy assistance need. Per CETA, low-income households are those with income up to the greater of 80% of area median income or 200% of the federal poverty level, adjusted for household size. By way of comparison, households are not eligible for LIHEAP assistance if household income exceeds 150% of the federal poverty level.

2021: Investor-owned utilities required to provide assistance

The 2021 Legislature amended statute governing investor-owned utilities (ESSB 5295, Ch. 188, Laws of 2021). The amendment requires these utilities to offer bill assistance to low-income customers. Bill assistance includes billing discounts, grants, and other low-income assistance programs:

- Beginning in 2022, every general rate case filing of a gas or electric utility must include a proposal for a multiyear rate plan. If the plan includes a rate increase, the amount of low-income bill assistance must increase by at least double the percentage increase in rates.
- Utilities must offer bill assistance to low-income customers and may recover the cost of this assistance from ratepayers, up to 5% of revenue.

Recommendations

The Legislature should state public policy objectives and, if applicable, set performance metrics.

- If the Legislature’s objective is to encourage utilities to offer more utility-funded energy assistance, it should consult with the Department of Commerce to identify changes that achieve that goal. Possible options include increasing the amount of the credit or amending the qualification criteria.
- Alternatively, if the Legislature’s objective is providing tax relief, it should categorize the preference as one intended to do so.

Legislation Required: Yes.

Fiscal Impact: Depends on legislative action.

Implementation Date: Depends on legislative action.

Commissioners' Recommendation

The commission endorses the Legislative Auditor's recommendations without comment.

Agency Response

The Department of Commerce does not concur with the recommendation. Instead, Commerce recommends terminating the preference. See **attached letter (PDF)**.

The Office of Financial Management (OFM) and the Department of Revenue (DOR) were given an opportunity to comment on this report. They responded that they do not have any comments. See **attached letter (PDF)**.

Current Recommendation Status

JLARC staff follow up on the status of Legislative Auditor recommendations to agencies and the Legislature for four years. The most recent responses from agencies and status of the recommendations in this report can be viewed on our **Legislative Auditor Recommendations page**.

Appendices

Appendix A: Fiscal year 2024 base credit allocations | Appendix B: Commerce energy assistance report | Appendix C: Applicable statutes | Appendix D: Study questions & methods | Appendix E: Audit authority | Appendix F: Study process

Appendix A: Fiscal year 2024 base credit allocations

DOR's administration of the credit includes publishing base credit allocations. The allocations are based on the share of federal LIHEAP funds each utility received in the previous fiscal year. They are included in a special notice.

The **2023 Special Notice includes base credit allocations** for fiscal year 2024. Figure 8 shows the base credit allocations and the LIHEAP energy assistance grants on which they are based.

Figure 8: Fiscal year 2024 base credit allocations

Vendor	YTD LIHEAP	Proportionate share	Base credit
PUGET SOUND ENERGY	$ 15,969,981	31.7595%	**$793,988**
PACIFICORP dba PACIFIC POWER & LIGHT COMPANY	$ 5,411,240	10.7613%	**$269,033**
CLARK PUBLIC UTILITIES	$ 4,384,892	8.7202%	**$218,006**
SNOHOMISH COUNTY PUD	$ 3,803,818	7.5647%	**$189,116**

Source: DOR 2023 Special Notice

Appendix B: Commerce energy assistance report

In addition to the energy assistance provisions for utilities, CETA directs Commerce to report biennially on low-income energy assistance programs, energy burden, and energy assistance need. This appendix includes a summary of some of that report's findings. **The full report from Commerce** is available online.

Not all utilities offer energy assistance programs

In its first low-income energy assistance report published in 2023, Commerce reports assistance programs available to low-income households largely depend on the type and size of the utility that serves the household. Investor-owned utilities (IOUs) or large consumer-owned utilities (COUs) tend to provide direct bill assistance and energy efficiency programs to all low-income customers. Smaller COUs tend to have fewer program offerings than IOUs or large COUs, and some offer no utility-funded program. They may offer customer-funded or federally funded assistance.

Energy burden and energy assistance need

A household is **energy burdened** when its residential energy bills exceed 6% of gross income. **Energy assistance need** is the amount of funding needed to reduce home energy bills of a low-income household to 6% of its gross income.

Commerce used U.S. Census data to estimate the energy burden of low-income utility customers in Washington, because utilities do not generally collect this information. The estimates include energy costs from electricity and other home fuel sources, such as natural gas, propane, and wood:

- More than 250,000 low-income households in Washington spend more than 6% of their household income on home energy bills.
- After considering bill reductions from energy assistance programs, remaining energy assistance averages $844 per household. Total need statewide, estimated at $234 million, far exceeds the amount that could be incented by the $2.5 million in state tax credits.
- A greater percentage of households in rural counties are energy burdened than in urban counties.
- Many rural counties are served by relatively small electric utilities. These utilities, Commerce reports, tend to offer fewer energy assistance programs than larger investor-owned or consumer-owned utilities.

Appendix C: Applicable statutes

82.16.0497 | Credit—Light and power business, gas distribution business. +

Appendix D: Study questions

This study aimed to answer the following questions, which were presented to JLARC in November 2023 (**view here**).

1. Have utilities that use the preference increased the amount of energy assistance they provide?
2. How does the distribution of utility-funded energy assistance compare to distribution of LIHEAP funds?
3. How does the amount of additional energy assistance offered by utilities compare to the energy burden of Washington low-income households?
    a. What are the racial and ethnic characteristics of the households that received assistance?

Methods

The methodology JLARC staff use when conducting analyses is tailored to the scope of each study, but generally includes the following:

- **Interviews** with stakeholders, agency representatives, and other relevant organizations or individuals.
- **Site visits** to entities that are under review.
- **Document reviews**, including applicable laws and regulations, agency policies and procedures pertaining to study objectives, and published reports, audits or studies on relevant topics.
- **Data analysis**, which may include data collected by agencies and/or data compiled by JLARC staff. Data collection sometimes involves surveys or focus groups.
- **Consultation with experts** when warranted. JLARC staff consult with technical experts when necessary to plan our work, to obtain specialized analysis from experts in the field, and to verify results.

The methods used in this study were conducted in accordance with Generally Accepted Government Auditing Standards.

More details about specific methods related to individual study objectives are described in the body of the report under the report details tab or in technical appendices.

Appendix E: Audit authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's nonpartisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in **Chapter 44.28 RCW**, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

Appendix F: Study process

View guide to JLARC Tax Preference Reviews **here**.

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