



Staff Presentation to  
Citizen Commission

# 2017 Tax Preference Reviews

Dana Lynn  
Rachel Murata  
Pete van Moorsel  
John Woolley

August 2017

# 2006 legislative mandate: conduct performance audits of tax preferences

## Legislature (Chapter 43.136 RCW):

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- **Created** the Citizen Commission for Performance Measurement of Tax Preferences
- **Specified** JLARC to review preferences over 10-year cycle
- **Outlined** specific questions for JLARC staff to answer
- **Required** audit recommendation
- **Key questions:** public policy objective stated? Achieved?

# Steps in process repeated each year

In 2016, Commission determined 10-year review schedule and preferences for JLARC staff review

- July 2017** ○ Staff presented to JLARC Committee
- August** ○ Staff present to Citizen Commission
- September** ○ Commission will take public testimony
- October** ○ Commission will adopt comments
- December** ○ JLARC will hear final report
- January 2018** ○ Joint fiscal committee hearing

# 16 Preferences reviewed in 2017

4

Renewable and Clean Energy

3

Financial Industry

4

Preferences Expiring Soon

5

Other

# Renewable and Clean Energy Preferences





# Cogeneration Facilities and Renewable Resources

Public Utility Tax

No Expiration Date

## **Cogeneration Facilities and Renewable Resources (Public Utility Tax)**

30-year deduction for  
operating costs of facilities  
constructed between 1980 and  
1990

No expiration date

# Cogeneration Facilities and Renewable Resources

2017-19  
Estimated Beneficiary Savings

**\$0**

Beneficiaries

**None since 2013**

Legislative Auditor recommends

**Terminate**

# Not contributing towards stated objective

## Renewable energy

Encourage efficient energy use and a reliable supply of energy based upon renewable energy resources

## Not currently achieving

The preference may have met its objective at one time, but is not currently contributing because no taxpayers are claiming it

# Legislative Auditor Recommends

## Terminate

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Add an expiration date to terminate the preference because it is not being claimed and no utilities will be eligible within a few years



# Electric Vehicle Batteries and Charging Stations

Sales and Use Tax; Leasehold Excise Tax

Preferences expire January 1, 2020

# Electric Vehicle Batteries and Charging Stations (Sales and Use Tax, Leasehold Excise Tax)

1. **Sales/use tax exemption** for:
  - **Electric vehicle (EV) battery** purchases, installation and repair services
  - **EV charging station** parts, construction, installation and repairs
2. **Leasehold excise tax (LET) exemption** for private use of publicly owned property to build or operate EV charging stations

All expire January 1, 2020

# EV Batteries (Sales and Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$ Limited impact**

Beneficiaries

**Less than three identified**

Legislative Auditor recommends

**Review and clarify if meeting legislative expectations**

# Batteries - stated intent to encourage transition to EVs, develop EV infrastructure

## EV batteries (sales & use)

Exemption for sales, installation, repair services

## Objective not being met

**Not used as anticipated** when enacted in 2009

- “Lease and swap” scenario did not materialize
- **Unclear** level of activity

Less than 3 businesses reported sales in 2016, none in 2014 or 2015

# EV Charging Stations (Sales and Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$1.8 to \$3.4 million**

Beneficiaries

Public entities, individuals and businesses that construct, install charging stations or equipment at public areas, homes or businesses

Legislative Auditor recommends

**Review and clarify to set target for number of stations**

# Level 2 and Level 3 Chargers Qualify for Preference



# Charging stations - stated intent to encourage transition to EVs, develop EV infrastructure

## EV charging stations (sales & use)

Exemption for parts and construction, repair, improvement services

## Preference being used, unclear if objective being achieved

Since 2009, **1,663 publicly available** EV charging stations added – most are Level 2, not Level 3

- **Unclear** if this growth meets legislative goal for expanded EV infrastructure
- Preference also applies to **private** charging stations – likely Level 2

JLARC staff estimate a **range** between **4,000 to 13,000** private outlets installed

# EV Charging Stations (Leasehold Excise Tax)

2017-19  
Estimated Beneficiary Savings

**\$ Unknown**

Beneficiaries

**Private businesses using publicly owned property to operate EV charging stations**

Legislative Auditor recommends

**Clarify to add reporting requirement**

# Private use of public land – stated intent to encourage EV use and develop EV infrastructure

**Exempts private leases of publicly owned land (LET)**

No LET owed by private businesses that lease or use public lands to build or operate EV charging stations

**Preference being used but details are unclear**

Extent of use **unknown**

- **No data or records** available to determine extent this is used, the value of preference, or if it is achieving public policy objective

# Legislative Auditor recommends

## Before January 1, 2020, expiration date:

### EV batteries (sales & use) – Review and clarify

Determine if use matches **legislative expectations** for preference.

### EV charging stations (sales & use) – Review and clarify

**Set a target** for number of new EV charging stations. **Consider a metric** for number of stations sufficient to achieve public policy objective.

### EV charging stations (LET) – Clarify

**Add a reporting requirement** to identify who is using the preference and the extent to which they benefit.



# Wood Biomass Fuel Manufacturing

Business and Occupation Tax

No Expiration Date

# Wood Biomass Fuel Manufacturing (B&O Tax)

Preferential B&O tax rate (0.138%, vs. 0.484%) for manufacturers of wood biomass fuel

Qualifying wood biomass fuel:

- Liquid, used in internal combustion engine
- Produced from wood, forest, or field residue, or dedicated energy crops
- Manufactured through pyrolysis or gasification

No expiration date

# Wood Biomass Fuel Manufacturing (B&O Tax)

2017-19  
Estimated Beneficiary Savings

**\$0**

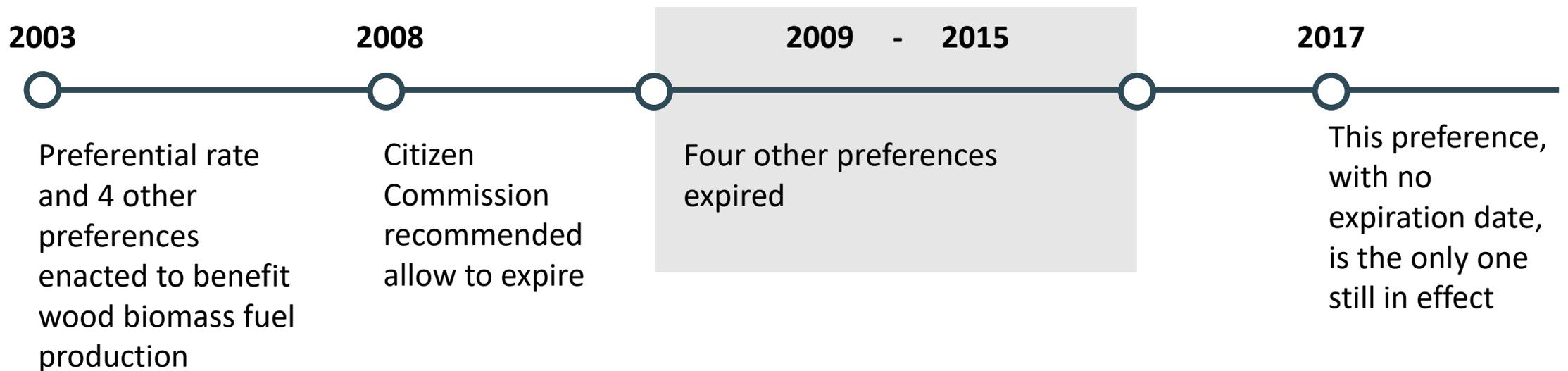
Beneficiaries

**Businesses that manufacture wood biomass fuel – No beneficiaries identified**

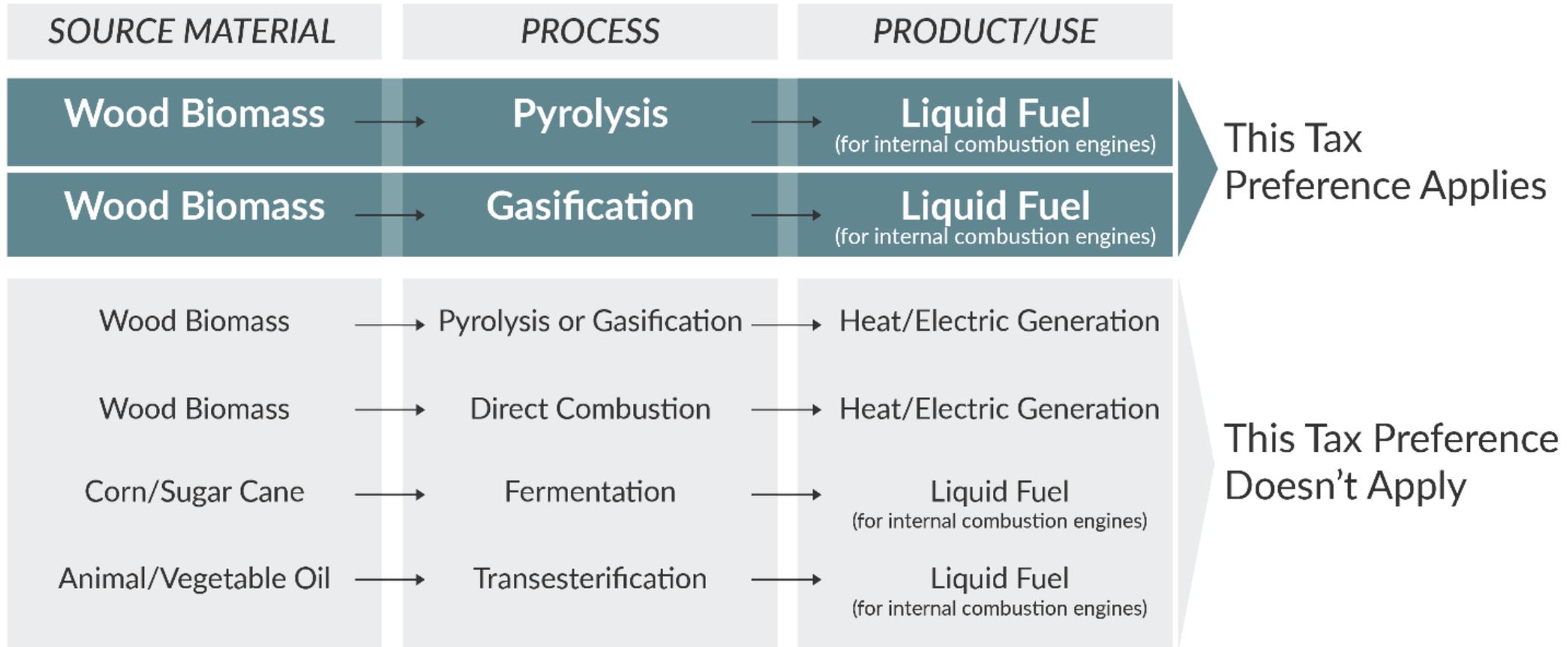
Legislative Auditor recommends

**Terminate**

# Preference is one of five enacted in 2003 and the only one still in effect



# Two qualifying manufacturing processes to create liquid fuel from wood biomass



# JLARC staff infer three public policy objectives

## Encourage wood biomass fuel production

To support creation of **alternative fuels** that lessen dependence on **foreign oil**

## Reduce air pollution

**Increase use** of a carbon-neutral source of fuel

## Increase wood biomass demand

To help **offset costs** of forest thinning, wildfire prevention

## Not achieving objectives

Preference is not being claimed

# Legislative Auditor recommends

## Terminate

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The Legislature should terminate the tax preference because it is **not being used** and other tax preferences directed at wood biomass fuel manufacturing are no longer in effect.

- Initially enacted in 2003 with other wood biomass fuel tax preferences
- None appear to have been claimed
- Only this wood biomass fuel tax preference remains, it may not provide sufficient incentive to meet the public policy objectives

# Financial Industry Preferences





# International Banking Facilities



Business and Occupation Tax

No expiration date



# International Banking Facilities (B&O Tax)

International banking facilities do not pay B&O taxes on their gross receipts

IBFs are separate accounts established on the books of qualifying financial institutions in the United States

No expiration date

# International Banking Facilities (B&O Tax)

2017-19  
Estimated Beneficiary Savings

**\$208,000**

Beneficiaries

International banking facilities  
JLARC staff estimate one IBF in Washington

Legislative Auditor recommends

**Review and clarify**

# Preference established shortly after IBFs were first authorized



# IBFs are subject to different regulations than domestic banks

IBFs are not subject to **reserve requirements, interest rate ceilings and deposit insurance assessments**

The Federal Reserve established rules specific to IBFs, including:

- Limiting who can borrow from and deposit with IBFs;
- Requiring business financed through IBFs be outside of the U.S.

# IBFs earnings from foreign customers not apportioned to Washington, not subject to B&O tax

2010 apportionment rule change from 3-factor to single-factor formula:

- Before change, financial institution earnings apportioned to Washington based on the average share of **property** and **payroll** in Washington, and **earnings** from Washington sources
- After change, earnings apportioned to Washington based only on share of **earnings** from Washington sources

# JLARC staff infer one public policy objective

## Encourage establishment

Exempting IBFs from state taxation to make them competitive with offshore financial centers

## Unclear if achieving inferred objective

JLARC staff identified one IBF in Washington  
However, apportionment rules may limit the value of the preference and its ability to influence IBFs' decisions to locate in Washington

# Legislative Auditor recommends

## Review and clarify

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**To provide an explicit public policy objective and metrics to determine if the objective has been achieved**

**Review the relevance of the preference given changes to Washington's apportionment laws**

- 2010 legislative changes to the apportionment formula may have diminished the value of this preference



# Standard Financial Information

Sales and Use Tax

Expires July 1, 2021



# Standard Financial Information

(Sales and Use Tax)

International investment management companies do not pay sales or use tax on the first **\$15 million** of standard financial information they purchase each year

Standard financial information is financial data, facts or information services (e.g., financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports)

# Standard Financial Information

## (Sales and Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$3.1 million**

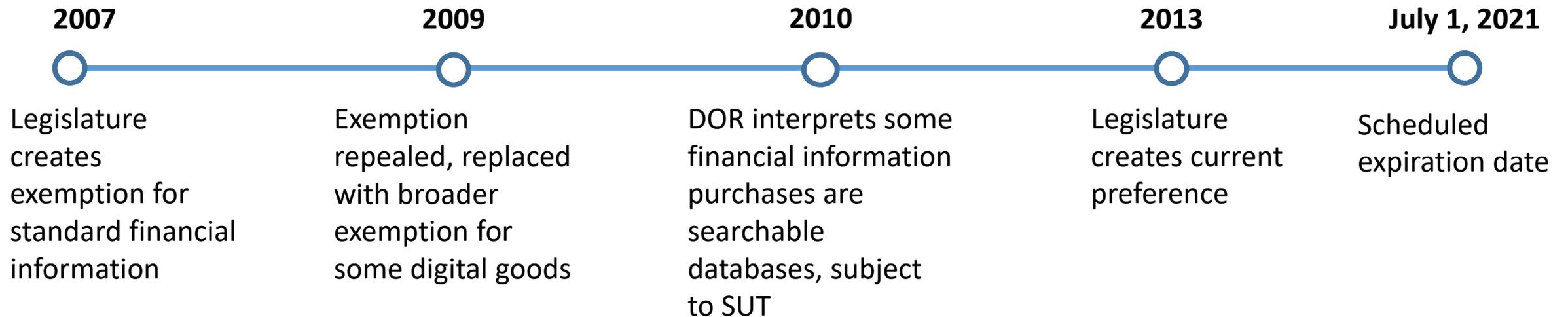
Beneficiaries

International investment management companies that buy standard financial information – three in 2016

Legislative Auditor recommends

**Clarify**

# Three legislative efforts to exempt standard financial information from sales and use tax



# Legislature stated two public policy objectives

## Exempt sales of standard financial information

To conform with a previously determined policy objective

## Provide exemption with minimal fiscal impact

So actual fiscal impact on state revenues “reasonably conforms” to the estimate in the fiscal note

## Preference achieving objective

By exempting sales of standard financial information, the preference is meeting this objective

## Unclear if preference is achieving objective

Fiscal impact depends on share of SFI that is considered a searchable database  
Share is unknown, JLARC staff illustrated 3 scenarios

# Legislature stated two public policy objectives

	Percentage of SFI that is Online Searchable Database	Fiscal Note Estimate, State Revenue (FY16)	Estimated Revenue Impact (FY16)	Difference (\$)	Difference (%)
Scenario 3	100%	(\$469,000)	(\$1,125,000)	\$656,000	140%
Scenario 2	50%	(\$469,000)	(\$563,000)	\$94,000	20%
Scenario 1	42%	(\$469,000)	(\$469,000)	\$0	0%

# Legislative Auditor recommends

## Clarify

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The preference is meeting the stated objective of exempting sales of standard financial information.

Because there is no metric, unclear if the actual fiscal impact reasonably conforms to the 2013 fiscal estimate.



# State-Chartered Credit Unions

Business and Occupation Tax

No expiration date

# State-Chartered Credit Unions (B&O Tax)

State-chartered credit unions do not pay B&O tax on their gross income

No expiration date

# State-Chartered Credit Unions (B&O Tax)

2017-19  
Estimated Beneficiary Savings

**\$47.9 million**

Beneficiaries

**55 state-chartered credit unions**

Legislative Auditor recommends

**Clarify**

# JLARC staff infer two objectives

<b>Keep state C.U.s under state regulation</b>	<b>Inferred objective achieved</b>
Remove potential incentive to switch to federal charter to avoid B&O tax	State-chartered C.U.s exempt from B&O tax in same manner as federally chartered C.U.s
<b>Support serving low-income populations</b>	<b>Unclear if Legislature had specific goal to serve low-income populations</b>
Past statements suggest C.U.s had underlying purpose to serve low-income people	Not explicitly stated in C.U. law or regulations Broad field of membership allows to serve, but doesn't limit to just low-income

# Legislative Auditor recommends

## Clarify

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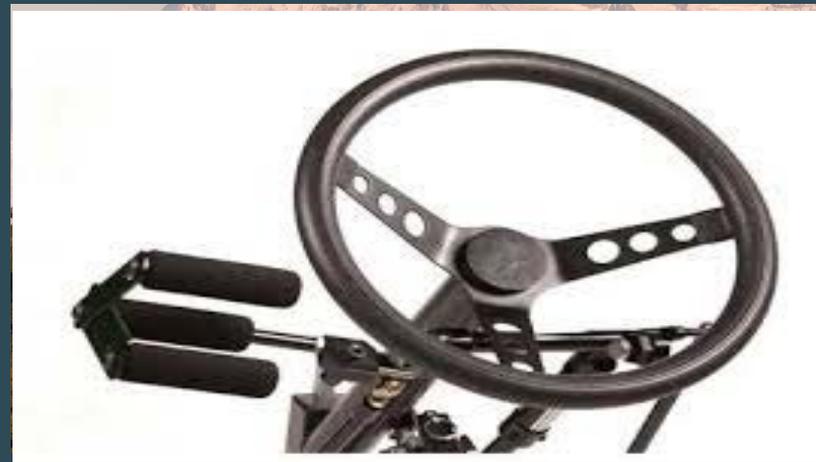
To **identify the public policy objectives**, as none are stated in statute.

As part of clarification, **provide a performance statement** that provides **targets and metrics** to measure if the public policy objectives have been achieved.

Consider if an objective to serve low-income populations is consistent with other state-chartered credit union policy objectives, such as providing a broad field of membership.

# Preferences That Expire Soon





# Auto Adaptive Equipment for Veterans/Service Members with Disabilities

Sales and Use Tax

Expires July 1, 2018

# **Automobile Adaptive Equipment (AAE) for Disabled Veterans & Service Members (Sales and Use Tax)**

Disabled veterans and service members do not pay sales or use tax for add-on AAE to help enter, exit, or safely operate vehicles

AAE must be prescribed by physician and paid for by V.A. or other federal agency

Expires July 1, 2018

# AAE for Disabled Veterans & Service Members (Sales & Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$194,000**

Beneficiaries

Veterans and service members who are disabled – VA reports 185 approved applications in 2016

Legislative Auditor recommends

**Clarify for fiscal impact**

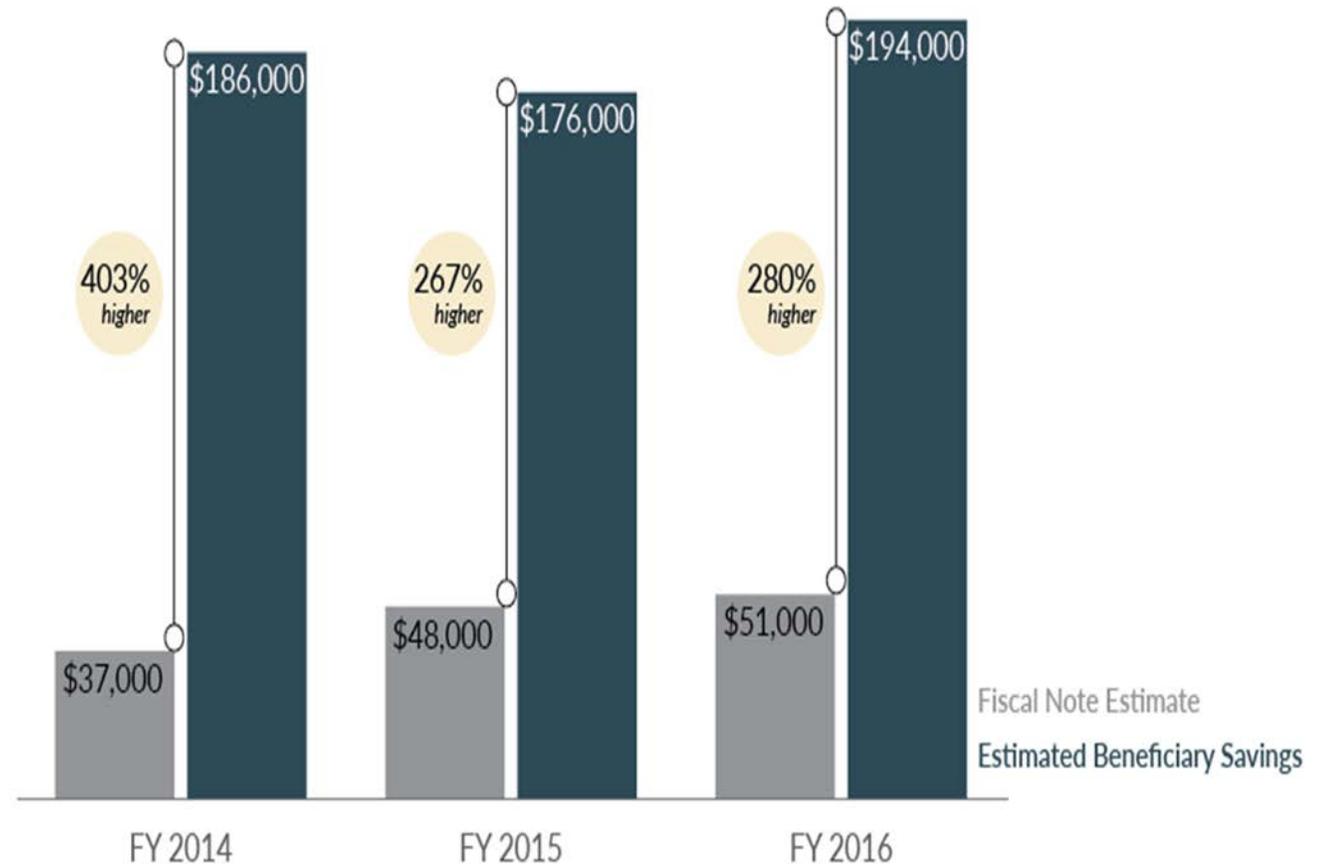
# Legislature stated public policy objectives

<b>Provide financial relief</b>	<b>Achieving stated objective</b>
Disabled veterans/service members often: need specialized transportation equipment; have lower incomes; cannot afford AAE to customize vehicles	<b>Reduces cost</b> for add-on AAE by 9% (average sales tax rate)
<b>Offset competitive issue</b>	<b>Perceived disadvantage removed</b>
Perceived competitive disadvantage for WA AAE businesses competing with OR	<b>Eliminates perceived disadvantage</b> for WA businesses compared with businesses located in states with low or no sales tax

# Legislature wanted to reexamine in 5 years

## Compare actual use to 2013 estimate

Legislature wanted to compare cost of preference with 2013 fiscal note estimate



# Legislative Auditor recommends

## Clarify

While the preference provides financial relief and removes a perceived competitive disadvantage, the estimated beneficiary savings exceeded the 2013 fiscal note estimate for the past three fiscal years.

## Look Inside an AFV

Explore new vehicle illustrations to learn about the different parts and components of an Alternative Fuel Vehicle (AFV).



# Clean Alternative Fuel Vehicles

Sales and Use Tax

Expires July 1, 2019, at the latest

# Alternative Fuel Vehicles (AFVs) (Sales and Use Tax)

No sales or use tax owed on first **\$32,000** of sale or lease for AFVs with MSRP of **\$42,500 or less** for lowest base model

Qualifying AFVs:

- Exclusively powered by electricity, natural gas, propane, or hydrogen
- Plug-in hybrids that travel at least 30 miles using only battery power

Expires earliest of:

- Target of 7,500 qualifying AFVs titled since July 15, 2015
- July 1, 2019

# Alternative Fuel Vehicles (Sales and Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$14.8 million**

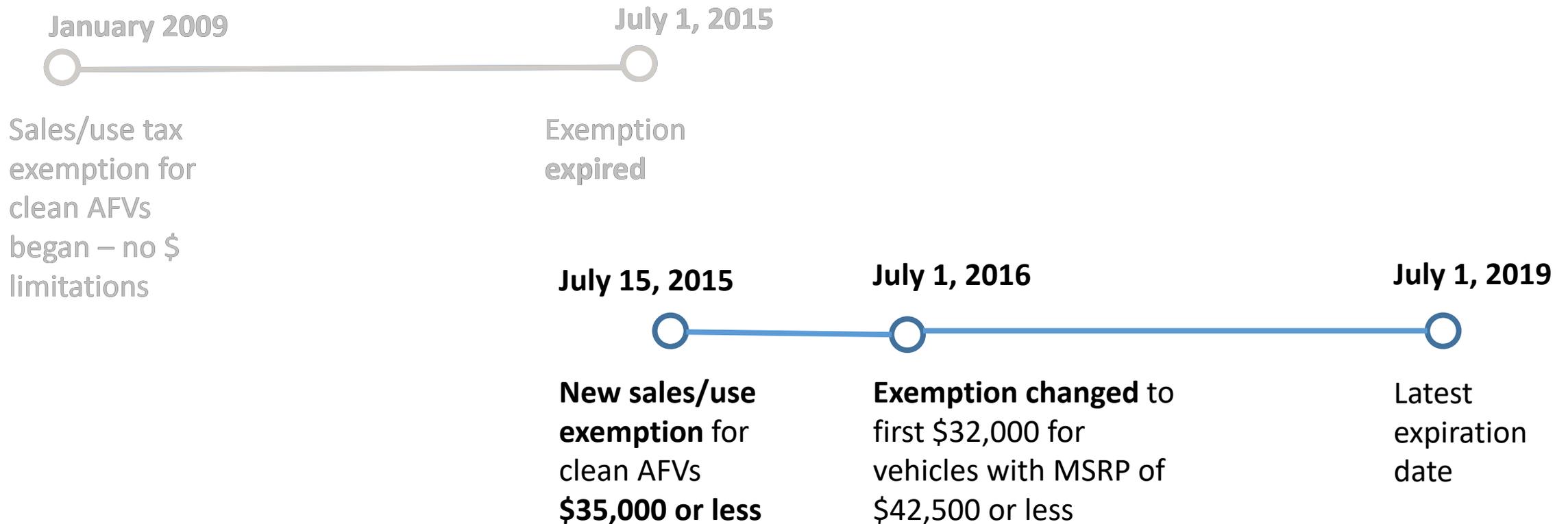
Beneficiaries

Individuals and entities that buy or lease qualifying AFVs – 3,520 titled as of 3/31/17

Legislative Auditor recommends

**Review in 2019 session if target not reached**

# Legislature has tried different options to increase clean AFVs in Washington



# Legislature stated public policy objective

Increase clean vehicle use	Preference achieving objective
Increase use of qualifying clean AFVs by <b>reducing</b> their <b>price</b>	Preference <b>reduces price</b> for qualifying new AFVs on first \$32,000 of sale or lease price

	Price without preference	Price with preference	Savings with preference
Vehicle purchase price	\$42,500	\$42,500	
Cap on exemption		(\$32,000)	
Taxable amount	\$42,500	\$10,500	
Sales tax owed (Avg 9.3%)	\$3,953	\$977	
<b>Total price paid</b>	<b>\$46,453</b>	<b>\$43,477</b>	<b>\$2,976</b>

# Legislature set metric for JLARC review and target for titled AFVs

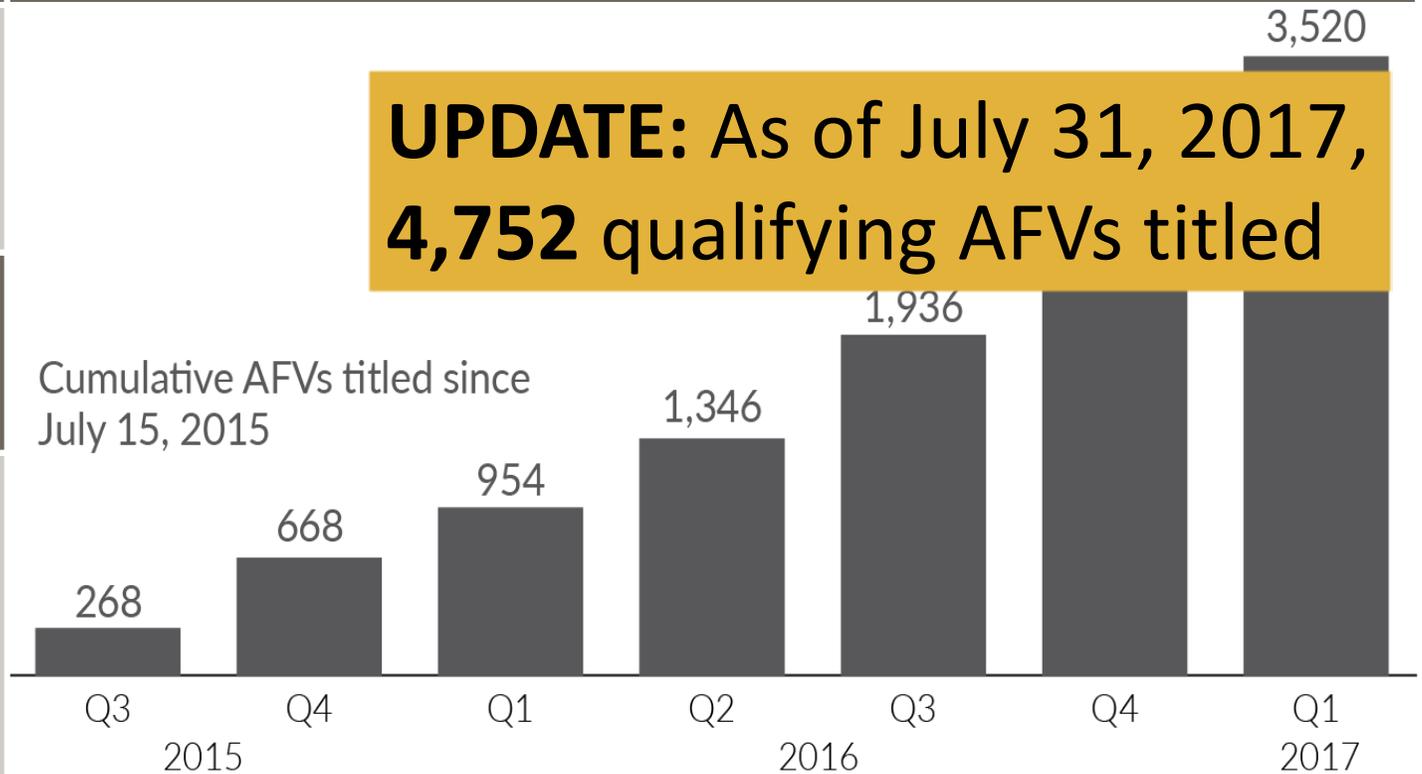
## Report on new titles

Legislature directed JLARC to report on **number** of new qualifying AFVs titled

## Unclear if titles will hit 7,500 before 7/1/2019

As of March 31, 2017:  
**47% progress** to 7,500 target  
**44% of time elapsed** to last expiration date

## Qualifying AFV titles increasing



# Legislative Auditor recommends

## Review in 2019

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Review the preference during the 2019 legislative session if the number of qualifying vehicles titled in Washington has not yet reached the 7,500 vehicle target.



# Electricity for Electrolytic Processors



Public Utility Tax

Scheduled to expire June 30, 2019



# Electricity for Electrolytic Processors (Public Utility Tax)

Public utilities do not pay **public utility tax** on their sales of **electricity** to processors when the electricity is used to convert dissolved salt into chemicals like chlorine through **electrolysis**

Processors must use on average 10 megawatts of electricity per month to qualify

Set to expire June 30, 2019

# Electricity for Electrolytic Processors (Public Utility Tax)

2017-19  
Estimated Beneficiary Savings

**\$1,344,000**

Beneficiaries

**Electrolytic processing firms –  
Two beneficiaries in 2016**

Legislative Auditor recommends

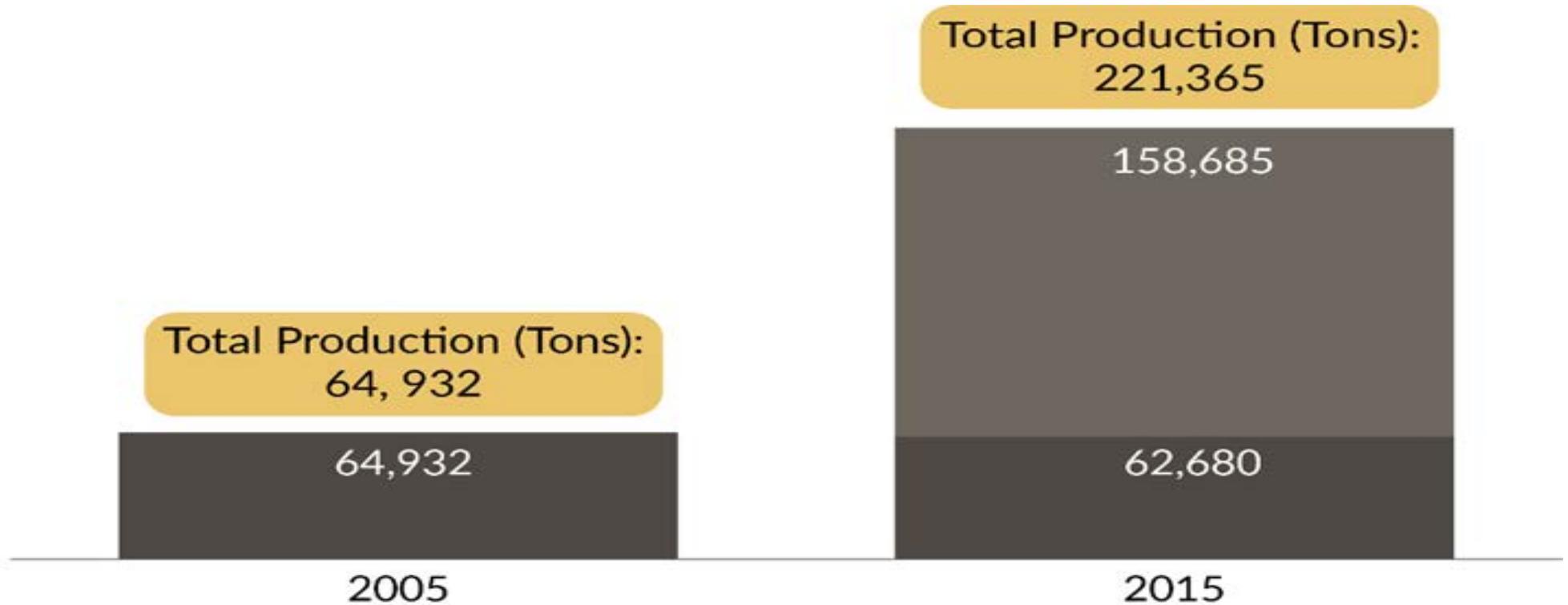
**Clarify**

# The value of the preference depends on the price of electricity

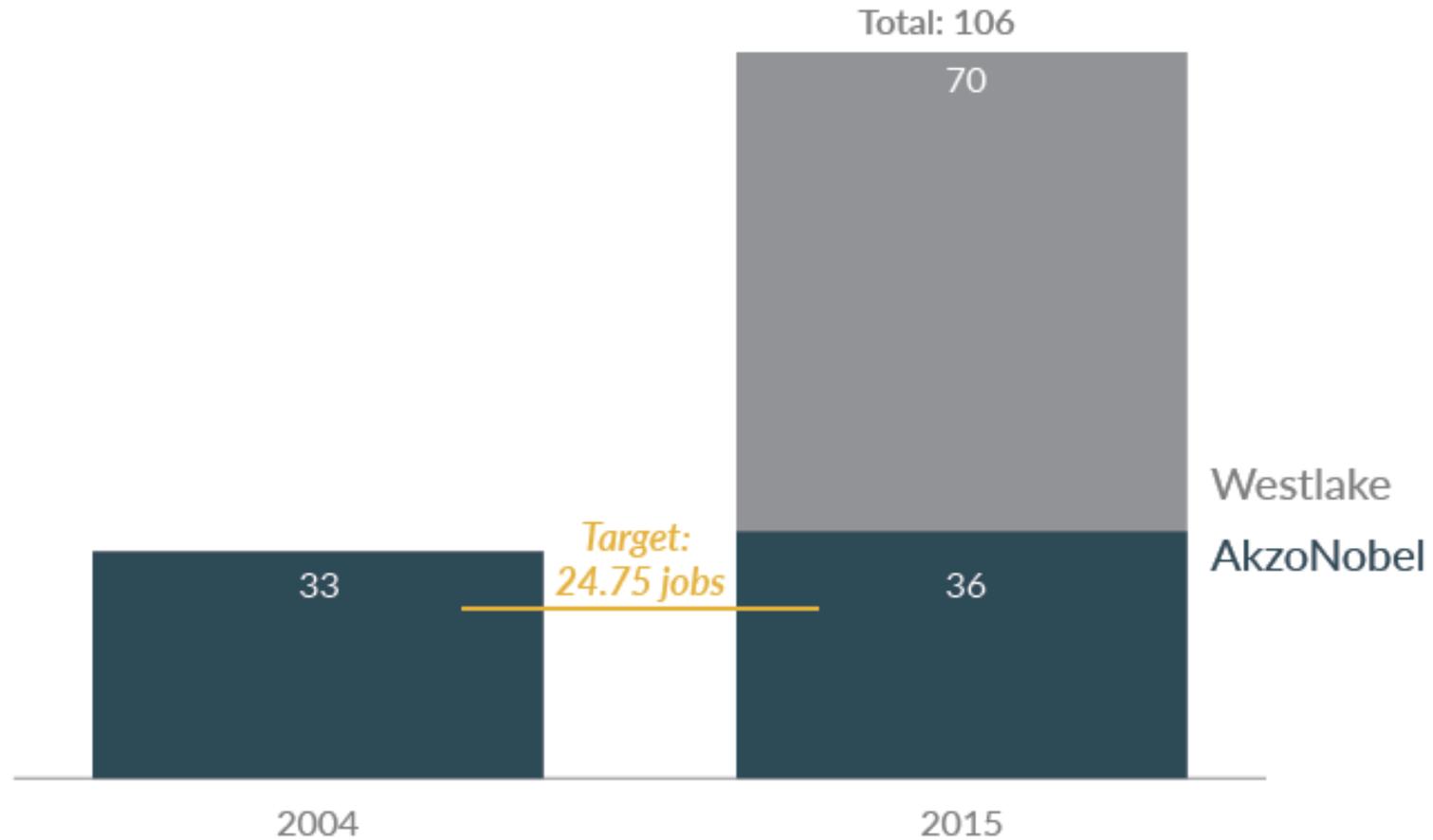
The cost of electricity represents about 50 percent of production costs, depending on the price of power

	Without Exemption	With Exemption
Price of electricity used in electrolysis	\$1,000,000	\$1,000,000
Utility tax rate	3.873%	Exempt
Tax due	\$38,730	\$0
Total power bill for processor	\$1,038,730	\$1,000,000
	Savings = 3.873% of price	

# JLARC staff infer two public policy objectives



# JLARC staff infer two public policy objectives



Electricity for Electrolytic Processors

# Legislative Auditor recommends

## Clarify

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The inferred objectives are being met. The Legislature repealed the stated public policy objectives in 2010.

If the Legislature is interested in family wage jobs, **a jobs target and definition of “family wage jobs”** would inform future reviews.

If the Legislature is interested in allowing the industry to continue production, **clarifying criteria to assess competitiveness and production** would help future reviews.

# Other Preferences Reviewed in 2017





# Coal Plant Preferences



Sales and Use Tax, Property Tax

No expiration dates



# Coal Plant Preferences (Sales and Use Tax, Property Tax)

Coal plants constructed after December 3, 1969, and before July 1, 1975, do not pay sales and use tax on:

- Coal used to generate electricity
- Air pollution control equipment

Air pollution control equipment is also exempt from property tax

No expiration dates

# Coal for Thermal Generating Plants (Sales and Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$6.1-\$16.6 million**

Beneficiaries

Coal-fired electric plant in  
Centralia

Legislative Auditor recommends

**Continue**

# Air Pollution Control Equipment (Sales and Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$0**

Beneficiaries

**Coal-fired electric plant in Centralia**

Legislative Auditor recommends

**Continue**

# Air Pollution Control Equipment (Property Tax)

2017-19  
Estimated Beneficiary Savings

**\$2,249,000**

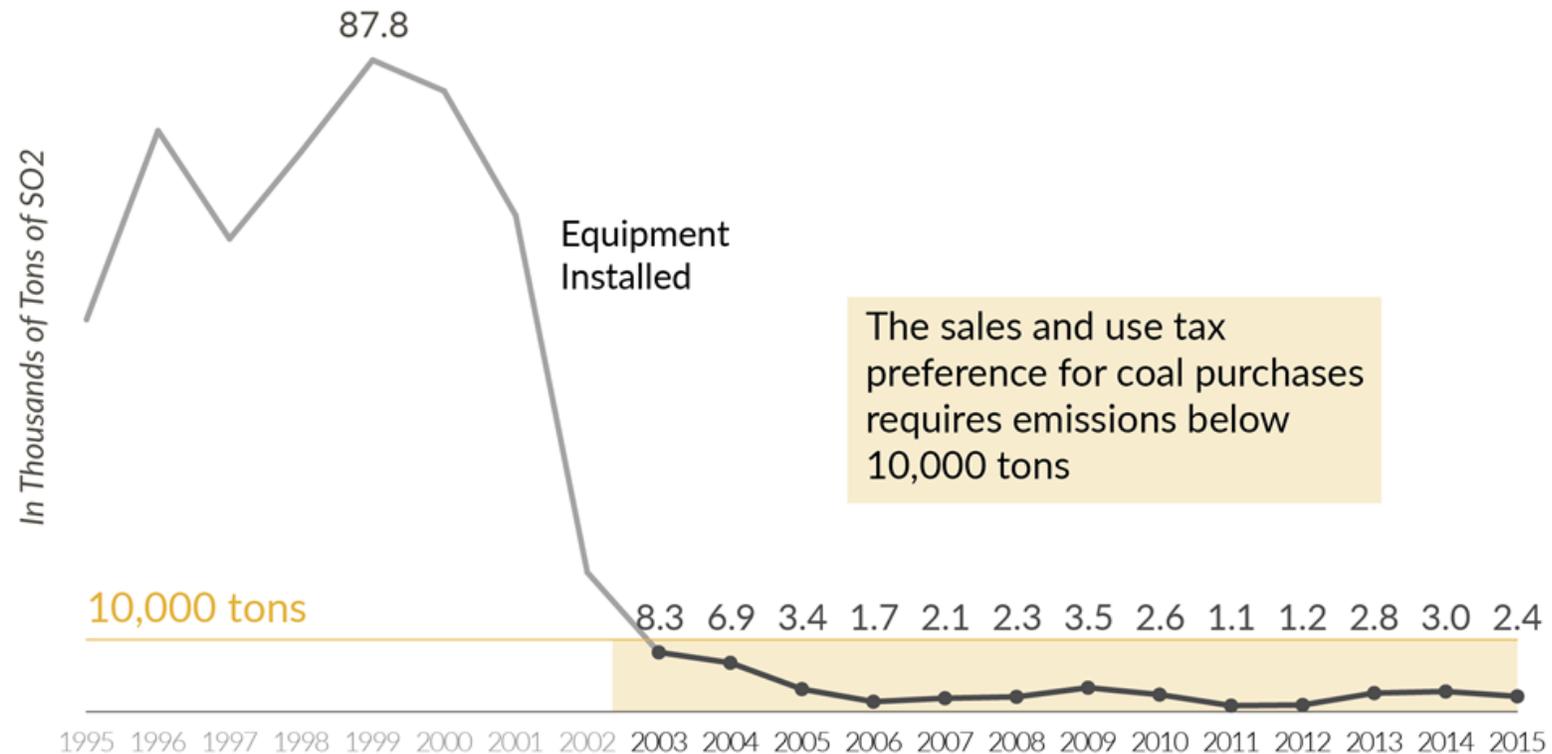
Beneficiaries

**Coal-fired electric plant in Centralia**

Legislative Auditor recommends

**Continue**

# Legislature stated three public policy objectives



# Legislature stated three public policy objectives

**Play long-term economic role in community**

**Achieving stated objective**

Plant employs 200 people

TransAlta makes \$55m in financial assistance payments, contingent on availability of tax preferences

# Legislative Auditor recommends

## Continue

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Until the coal-fired boilers at the plant are decommissioned.

Preferences meet objectives of helping Washington's only coal-fired power plant to update air pollution control equipment, abate pollution, and play an economic role in its community through 2025.

As the plant transitions away from coal by 2025, coal purchases and beneficiary savings attributable to those purchases will reduce to zero.



# Vessel Deconstruction

Sales and Use Tax

Expires January 1, 2025

# Vessel Deconstruction (Sales and Use Tax)

Sales and use tax exemption for vessel deconstruction work when performed at either:

- Qualified vessel deconstruction facility or
- Over the water in an area permitted under federal law

Expires January 1, 2025

# Vessel Deconstruction (Sales & Use Tax)

2017-19  
Estimated Beneficiary Savings

**\$246,000**

Beneficiaries

Authorized public entities (i.e., DNR, DFW, other government entities), private organizations, individuals

Legislative Auditor recommends

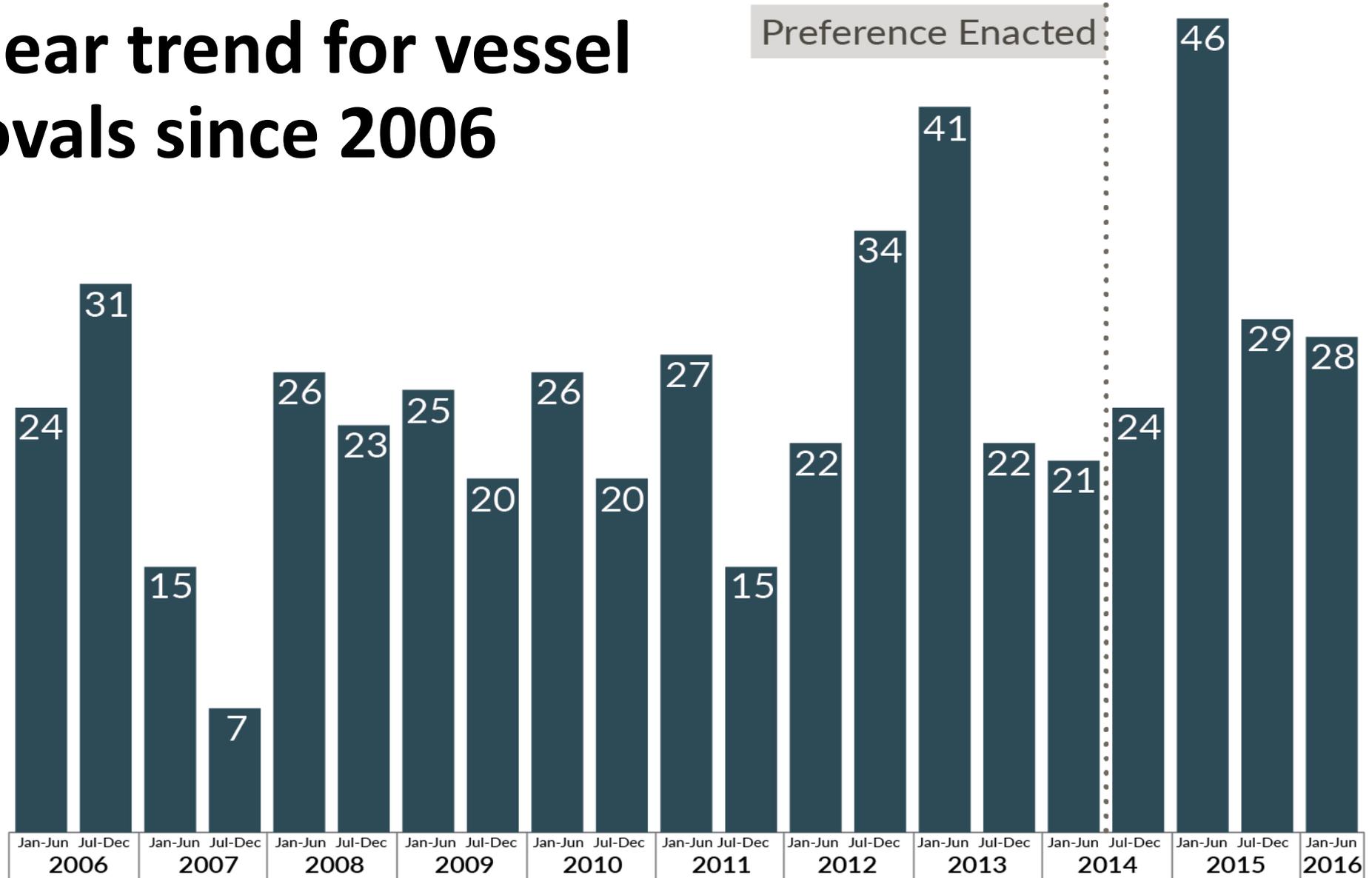
**Review and clarify**

# Stated objective - decrease abandoned/derelict vessels by removing them from WA waters

## Metrics provided for JLARC review:

If Either...	Results in...	Then:
An increase in available capacity to deconstruct derelict vessels <b>OR</b> A reduction in the average cost to deconstruct vessels	An increase in the number of derelict vessels removed from Washington waters  <i>(compared to before June 12, 2014)</i>	The Legislative Auditor should recommend extending the January 1, 2025, expiration date

# No clear trend for vessel removals since 2006



Vessel Deconstruction

# Slight increase in removals recently, but unclear if due to preference or other factors

## Vessel removals have varied since 2006

Removals up slightly recently

- Before: **29.5** every 6 months
- After: **31.8** every 6 months

## Unclear if preference caused the increase

Not all removals require deconstruction

- **78 of 205** vessels removed between Oct 2014 – Sept 2016 were deconstructed

## More capacity

Encourage increased capacity for vessel deconstruction work in Washington

## Not being achieved

Since enacted, no additional deconstruction businesses or increased capacity

- Deconstruction **minor part** of business, too sporadic for successful business model

# Legislative Auditor recommends

## Review and clarify

While the average cost for deconstruction is lower, it is **unclear** if preference led to changes in vessel removals.

When reviewing, the Legislature might consider:

- 1. Adopting a metric** other than number of vessels removed to measure if public policy objective is achieved.
- 2. Re-categorizing the purpose** of the preference as intended to provide tax relief rather than to induce a certain behavior.



## Electric Power Sold in Rural Areas

Public Utility Tax

No expiration date

## **Electric Power Sold in Rural Areas (Public Utility Tax)**

Deduction based on the number of customers per mile of power line and the average retail power rate, up to \$400,000 per month

No expiration date

# Electric Power Sold in Rural Areas

2017-19  
Estimated Beneficiary Savings

**\$1.7 million**

Beneficiaries

**17 utilities in FY 2016 with  
156,000 customers**

Legislative Auditor recommends

**Continue**

# Deduction = Lowest of three calculations

1

Percentage of wholesale power costs based on customers per mile of line:

<6 customers	50%
6-10 customers	40%
11-17 customers	30%
>17	No deduction

2

Percentage of wholesale power costs based on average retail power rate:

10% above average	10%
30% above average	30%
50% above average	50%

3

\$400,000  
per month

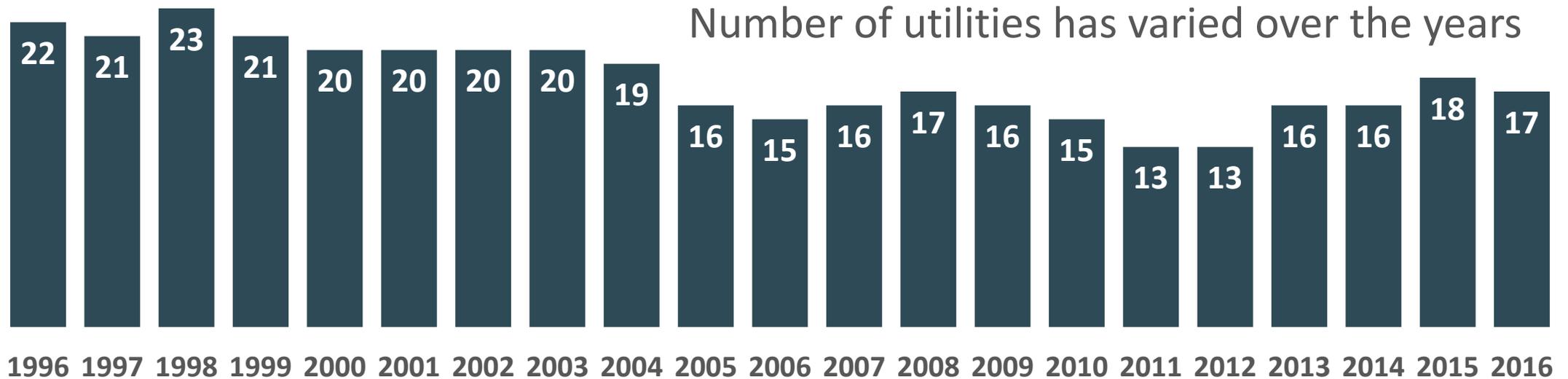
# Preference is meeting inferred objective

## Provide tax relief

To utilities and their customers in rural areas where retail power rates exceed the state average

## Achieving the objective

Structure ensures that only utilities with above average rates and low customer density benefit



Electric Power Sold in Rural Areas

# Legislative Auditor recommends

## Continue

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Meeting inferred objective of providing tax relief to rural utilities with higher electricity costs and their customers

## Consider

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Stating the public policy objective in statute



# Manufactured Home Communities

Real Estate Excise Tax

Expires December 31, 2018

## **Manufactured Home Communities (Real Estate Excise Tax)**

Exemption for sellers when they sell a manufactured home community to an organization for the purpose of preserving it

Current expiration date: 2018

# Manufactured Home Communities

2017-19  
Estimated Beneficiary Savings

**\$96,000**

Beneficiaries

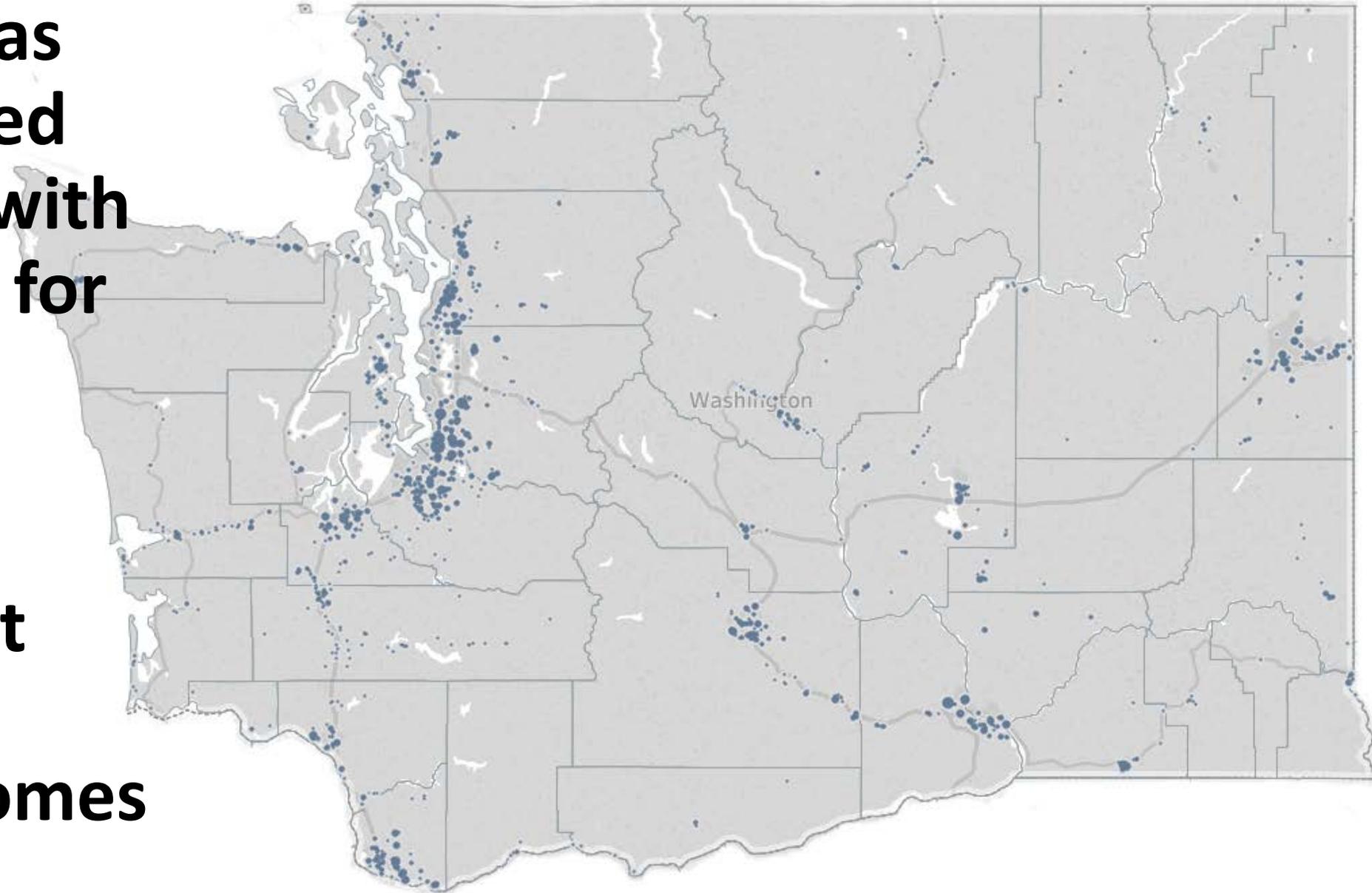
**Two sellers in FY 2016  
10 sales since 2008**

Legislative Auditor recommends

**Continue**

**Washington has  
1,377 registered  
communities with  
69,279 spaces for  
homes**

**Tenants do not  
own the land  
under their homes**

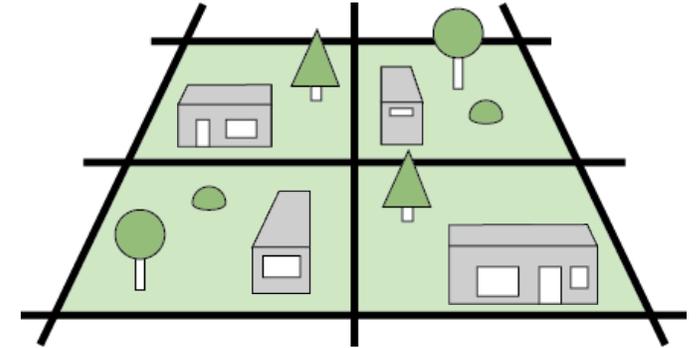


# How it works – example sale

Example:  
Property selling for  
**\$1,000,000**

**Offer 1**  
Potential buyer offers  
\$1,000,000  
- \$18,000 REET paid by owner  
**\$982,000**

**Offer 2**  
Tenant organization could offer  
**\$982,000**  
with preference



Property owner net price received  
**\$982,000**  
under both offers

# Preference meeting its stated objective

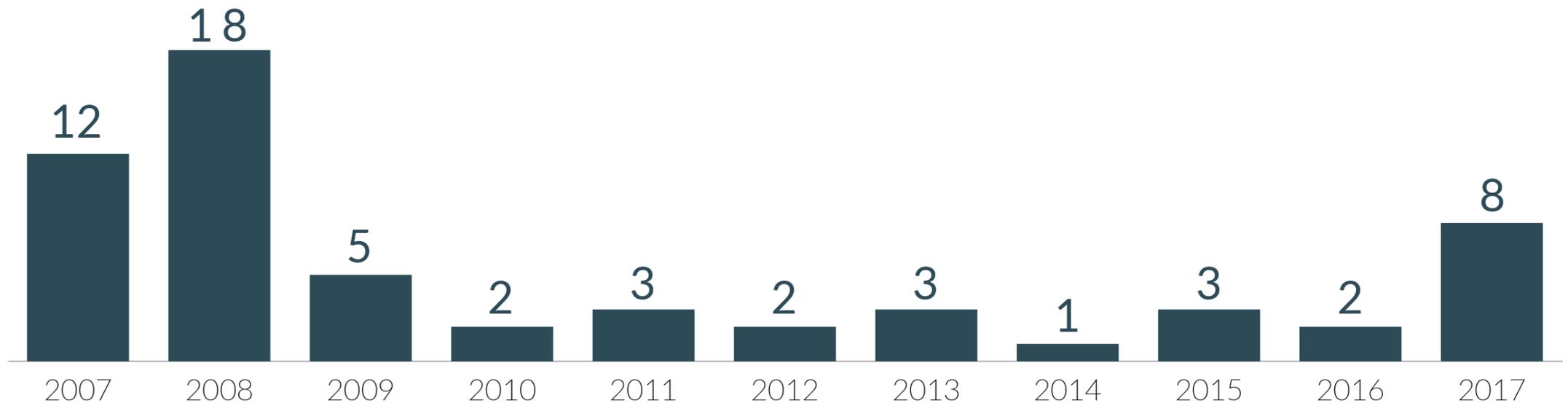
## Encourage preservation

Encourage and facilitate preservation of communities and involve community tenants

## Achieving the stated objective

Increases potential purchasing power of tenant organizations relative to other buyers

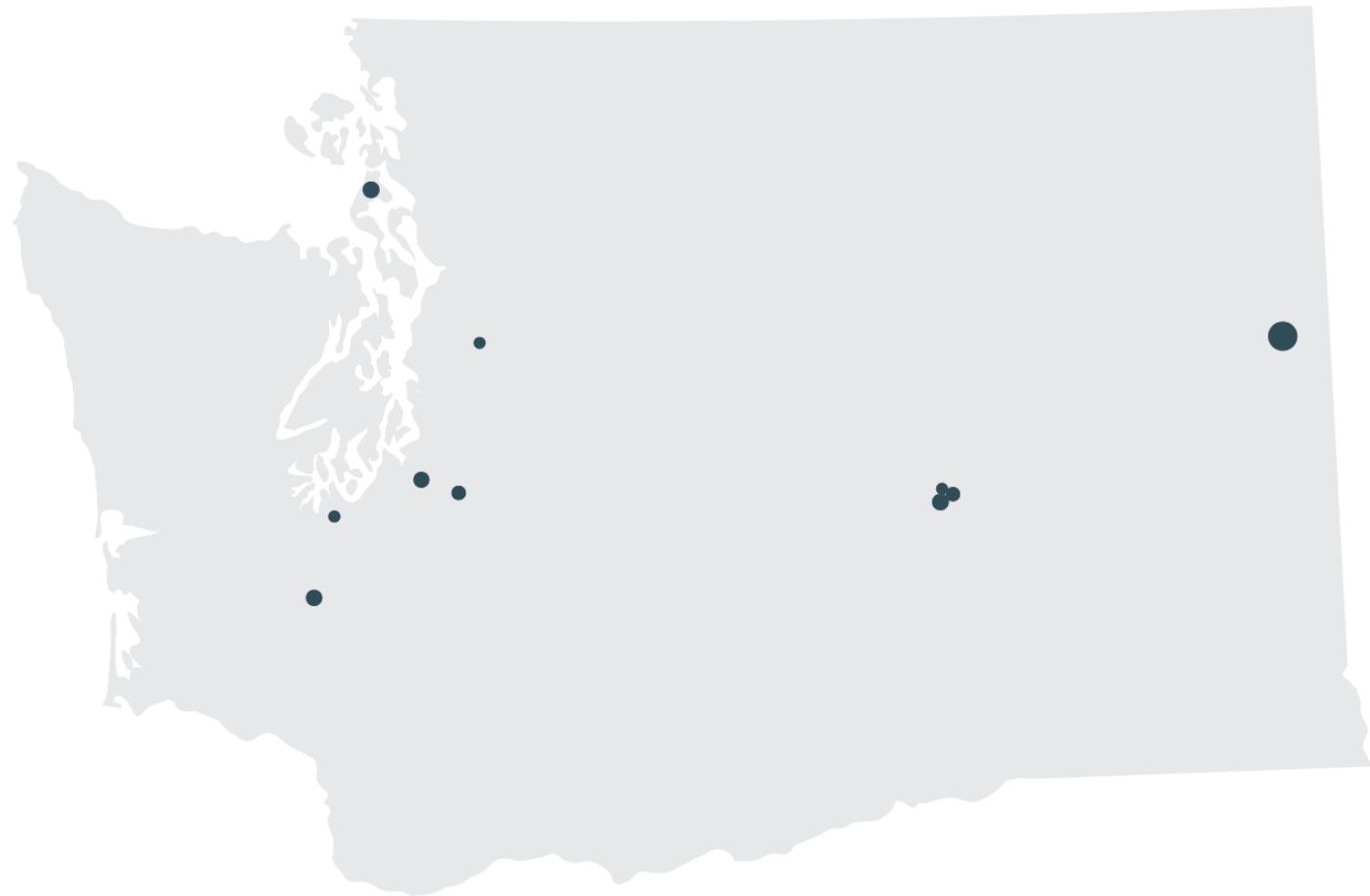
# Community closures continue to occur



**Upcoming closures planned for development:  
apartments, hotels, schools, hospitals**

Manufactured Home Communities

# Ten communities purchased since 2008



## 480 spaces for homes

Manufactured Home Communities

# Legislative Auditor recommends

## Continue

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Meeting its stated objective of facilitating preservation

Communities continue to close across the state

## Consider

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In extending, Legislature should consider adding a performance statement with metrics for future reviews



# Next Steps

Citizen Commission Takes Public Comment

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September 2017

Proposed Final Report

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December 2017

Presentation to Legislative Fiscal Committees

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January 2018

# Full Report

<http://leg.wa.gov/jlarc/taxReports/2017/default.htm>

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# Contact Us

**Dana Lynn**  
360-786-5177

**Rachel Murata**  
360-786-5293

**Pete van Moorsel**  
360-786-5185

**Eric Whitaker**  
360-786-5618

**Project Coordinator**  
**John Woolley**  
360-786-5184

