

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 86 (McNerney) – As Amended July 16, 2025

Policy Committee:	Transportation	Vote:	16 - 0
	Revenue and Taxation		7 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill extends the exclusion under the Sales and Use Tax (SUT) Law for certain manufacturing and clean energy projects administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) and expands the types of projects eligible for the exclusion.

Specifically, this bill:

- 1) Extends, for another five years, until January 1, 2031, the SUT exclusion administered by CAEATFA and allows a device or technology used for an electrical generation facility that uses nuclear fusion technology to qualify for the exclusion.
- 2) Declares the goals of extending the SUT exclusion and requires CAEATFA to submit a report to the Legislature with related performance data by January 31, 2027.

FISCAL EFFECT:

- 1) Annual General Fund (GF) revenue loss of \$100 million through 2030. Although SUT revenues are comprised of both a GF and local share, existing law requires the state to reimburse counties and cities for revenue losses caused by the enactment of a SUT exemption. By decreasing SUT revenue, this bill also likely decreases Proposition 98 GF spending by approximately 40% of the GF revenue loss (the exact amount depends on the specific amount of the annual Proposition 98 guarantee).
- 2) GF cost pressures in the tens of millions of dollars to increase CAEATFA program appropriations to accommodate the new types of projects eligible for the exclusion. CAEATFA notes that the program is already oversubscribed. In 2023, CAEATFA received applications for approximately \$252 million in SUT exclusions. Prior to amendments adopted by the Assembly Revenue and Taxation Committee, this bill would have increased the annual cap on the total amount of SUT exclusions administered through the program from \$100 million to \$200 million.
- 3) Absorbable costs to CAEATFA to continue administering the program and provide the specified report. CAEATFA notes the program is supported by application and annual fees.
- 4) Absorbable costs to the Department of Tax and Fee Administration to notify taxpayers, update published information, and answer inquiries about the continued exclusion.

COMMENTS:

1) **Purpose.** According to the author:

[CAEATFA's] Sales and Use Tax Exclusion (STE) Program has played a vital role in helping California make progress towards our climate goals, protect our environment, create green jobs, and stimulate the economy...Unfortunately, this successful program is scheduled to expire in less than a year. SB 86 will extend and expand CAEATFA's STE program and ensure that California continues to incentivize green projects, while also boosting the state's clean energy sector.

2) **Background. *Erosion of the SUT Base.*** Despite being the state's third largest source of GF revenues, the past several decades have seen a dramatic reduction in the state's reliance on SUT and a corresponding increase in reliance on personal income tax (PIT) revenues. California's economy has seen dramatic growth in the service and information sectors, resulting in a significant erosion of the SUT base that further shrinks with any additional SUT exclusion. The SUT is also widely criticized as a regressive tax that disproportionately impacts lower-income individuals. However, the shrinking SUT base compounds fiscal pressure to maintain or even increase California's relatively high SUT rate.

CAEATFA SUT Exclusion. As part of its duties to promote the creation of California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, and reductions in air and water pollution or energy consumption, CAEATFA administers a full (state and local portion) SUT exclusion program for related projects. CAEATFA must evaluate project applications based on a variety of criteria, including the extent to which the project's benefit to the state equals or exceeds the benefit of the exclusion to the applicant. Aggregate SUT exclusions for approved projects may not exceed \$100 million per calendar year. This bill extends the exclusion's sunset date from January 1, 2026, to January 1, 2031, and expands the program to allow certain nuclear fusion technologies to qualify for the exclusion.

LAO Report Recommended Program Expiration. In December 2018, the LAO released a detailed evaluation of the CAEATFA SUT exclusion, which noted, in summary: (a) the program likely increases participants' equipment purchases, (b) the program's overall economic effects are highly uncertain, (c) some environmental benefits are likely, but overall effects are limited, and (d) the allocation process is unnecessarily complex.

The LAO report also noted that the state currently administers two overlapping SUT exemption programs. In addition to the CAEATFA program, existing law also allows, until July 1, 2030, a manufacturing and research and development (MR&D) partial SUT exemption on tangible personal property (TPP) primarily used in MR&D or electric power generation, distribution, or storage. The partial exemption applies only to the GF portion of the statewide SUT rate (3.9375%) and is generally limited to \$200 million of TPP purchases by a qualified taxpayer in each calendar year. The LAO opined:

We do not see a need for the state to administer both the CAEATFA exemption and the partial exemption. Of the two programs, the CAEATFA exemption is narrower and harder for businesses to use. Consequently, we recommend that the Legislature allow the CAEATFA exemption to expire as scheduled under current law. To the extent that some CAEATFA participants would not be eligible for the partial exemption, the Legislature could expand the partial exemption to include them.

Alternatively, the LAO recommended transferring CAEATFA program administration to CDTFA, as CDTFA administers the vast majority of SUT exemptions.

- 3) **Support and Opposition.** This bill is sponsored by State Treasurer Fiona Ma, who serves as CAEATFA chair and argues, “Allowing the sunset to expire would jeopardize the retention and creation of thousands of jobs and future economic growth throughout California.” This bill is also supported by a coalition of business groups led by the California Manufacturers and Technology Association and certain labor trades.

This bill is opposed by the California Teachers Association, which acknowledges the intent of the bill, but “does not support this approach, as it would reduce overall funding for education... Proposition 98 should be protected from reductions through the creation of new or expanding existing tax expenditures.”

- 4) **Related Legislation.** SB 587 (Grayson) allows a credit under the PIT Law and Corporation Tax Law equal to the amount of SUT paid on purchases partially exempt under the MR&D partial SUT exemption. SB 587 is pending hearing by this committee.
- 5) **Prior Legislation.** AB 2400 (Luz Rivas), of the 2023-24 Legislative Session, was similar to this bill, except AB 2400 did not propose to expand the program to nuclear fusion technologies. AB 2400 was held on this committee’s suspense file.

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