

SENATE THIRD READING  
SB 86 (McNerney)  
As Amended September 02, 2025  
Majority vote

## SUMMARY

Extends the authority of the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to provide financial assistance in the form of a sales and use tax (SUT) exclusion for qualifying projects to January 1, 2028.

### Major Provisions

- 1) Extends the SUT exclusion to January 1, 2028.
- 2) Adds electrical generation facilities using nuclear fusion technology to the types of projects qualifying for this SUT exclusion.
- 3) Makes other conforming changes.
- 4) Provides that, for purposes of Revenue and Taxation Code Section 41, the Legislature finds and declares that the specific goals, purposes, and objectives of the SUT exclusion are as follows:
  - a) Creation of California-based jobs; and,
  - b) Reduction in emissions of greenhouse gases, air and water pollution, and energy consumption.
- 5) Provides that, to measure whether the extension of the SUT exclusion has achieved these goals, purposes, and objectives, the CAEATFA, on or before January 31, 2027, shall prepare and submit a report to the Legislature on both of the following:
  - a) The net effects of the extension on jobs and economic output; and,
  - b) The net environmental effects of the extension.
- 6) Takes immediate effect as a tax levy.

## COMMENTS

- 1) *The Legislative Analyst's Office evaluation:* In December 2018, the Legislative Analyst's Office (LAO) released a detailed evaluation of the CAEATFA sales tax exclusion. Among other things, this report noted:
  - a) *"Program likely increases participants' equipment purchases:* [The LAO estimates] that the current program increases participants' equipment purchases in California by roughly 5% to 9%. The exemption also likely increases participants' output and employment in the state, though by a smaller amount than the increase in equipment purchases."
  - b) *"Overall economic effects highly uncertain:* The economic effects of the CAEATFA exemption extend well beyond the direct effects described above. Available data and methods cannot support credible, precise estimates of the net effects of the program on

jobs or economic output. Depending on the alternative uses of the foregone sales tax revenue, the net economic effects of the program could be positive or negative."

- c) *"Some environmental benefits likely, but overall effects limited:* The CAEATFA exemption likely produces some environmental benefits. However, several factors limit the overall net environmental effects of the program. For example, much of the increase in California-based output likely is offset by reductions in other states or countries. As a result, the net increase in global production of "green" goods – a key factor determining environmental benefits – likely is much smaller than the increase in production within California."
- d) *"Allocation process unnecessarily complex:* To use the CAEATFA exemption, equipment purchasers must fill out extensive applications, wait for board approval, and submit periodic reports to CAEATFA. These requirements make participation more costly, likely reducing the effectiveness of the exemption. In addition, most of the information provided by applicants is not useful for allocating the exemption. These requirements have, however, led to greater transparency than the state typically provides regarding the use of tax expenditures."

The LAO report also noted that the state currently administers two overlapping SUT exemption programs – namely, the one administered by the authority, and the partial exemption for manufacturing and research and development activities.<sup>1</sup> The LAO noted that the partial manufacturing exemption is broader than the CAEATFA exemption and easier for businesses to use. As such, the LAO recommended allowing the CAEATFA exclusion to expire. Specifically, the report noted:

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 the administration of the program from the authority to the California Department of Tax and Fee Administration (CDTFA), which administers the vast majority of SUT exemptions.

- 2) *Should manufacturing purchases be fully exempt?* Most experts who have studied state SUT regimes would argue that, in an ideal world, it makes little sense to subject most business-to-business purchases to sales tax. This contention is predicated on the fact that taxing such business inputs often leads to tax pyramiding. Tax pyramiding, in turn, occurs when the same good is taxed multiple times during the production process. Imagine, for example, a manufacturing firm that purchases taxed materials to fabricate an item that is again subject to

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<sup>1</sup> Until July 1, 2030, existing law provides a partial SUT exemption for a qualified person's purchase of qualified TPP to be primarily used in manufacturing; research and development; or electric power generation, distribution, or storage. The exemption only applies to the GF components of the statewide SUT rate (3.9375%) and is generally limited to \$200 million of TPP purchases by a qualified person in each calendar year.

SUT upon its final sale to a consumer. California's existing SUT exemption programs at least partially addresses this problem for qualifying purchases.

It should be noted, however, that most tax experts would also argue that the current SUT *base* is far too narrow. By only imposing SUT on sales of TPP, California's current consumption tax fails to capture a wide range of consumer services and digital purchases.

### **According to the Author**

1) The author has provided the following statement in support of this bill:

California is the cradle of the US Clean Energy Economy. State goals of getting to 100% clean energy by 2045, along with state incentives for clean tech development, have spurred a clean tech industry worth several billion dollars in the state. This industry provides good paying jobs to Californians while helping keep CA the 5<sup>th</sup> largest economy in the world. The California Alternative Energy and Advanced Transportation Financing Authority's (CAEATFA) 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. The program provides tax credits to clean energy companies in the state that do work relating to renewable energy sources, energy efficiency, advanced transportation and manufacturing technologies to reduce air pollution, and that promote economic development and jobs. 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. Plus, the bill will help California become a national leader in fusion energy, a potential game-changing clean technology.

### **Arguments in Support**

This bill is supported by We Think Global, Inc., which notes the following:

The CAEATFA helps California achieve its climate goals by providing financial incentives to innovative manufacturers in the alternative energy and advanced transportation sectors. These companies are vital to the state's economy, generating numerous high-paying, permanent jobs. Eligible manufacturers, like WTG, can apply to CAEATFA for an STE award, which, if approved, exempts the purchase of qualified property for the project from state and local sales and use tax. Unfortunately, this successful program is scheduled to expire in less than a year.

SB 86 will extend and broaden the scope of the CAEATFA program, reinforcing California's commitment to supporting environmentally friendly projects and fostering the growth of its clean energy industry while creating and sustaining high road jobs. Furthermore, this legislation positions California as a frontrunner in fusion energy development, an emerging technology with the potential to revolutionize clean energy production.

### **Arguments in Opposition**

This bill is opposed by the California Teachers Association, which notes the following:

According to the Department of Finance, the state provided over *\$91.5 billion* in General Fund tax expenditures in 2024-25 (including income, sales and use, corporate and other

taxes). This number continues to grow each year. This revenue would have otherwise gone to the General Fund, of which approximately 39% would have gone toward

Proposition 98 for K-14 education. Due to existing tax expenditures, approximately \$35 *billion* is redirected away from schools and community colleges each year.

While we understand this bill is well intended, CTA does not support this approach, as it would reduce overall funding for education. CTA believes Proposition 98 should be protected from reductions through the creation of new or expanding existing tax expenditures.

## FISCAL COMMENTS

According to the Assembly Committee on Appropriations:

- 1) Annual General Fund (GF) revenue loss of \$100 million through 2027. 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 CDTFA to notify taxpayers, update published information, and answer inquiries about the continued exclusion.

## VOTES

### SENATE FLOOR: 39-0-1

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Reyes

### ASM TRANSPORTATION: 16-0-0

**YES:** Wilson, Davies, Ahrens, Bennett, Caloza, Carrillo, Hart, Hoover, Jackson, Lackey, Lowenthal, Macedo, Papan, Ransom, Rogers, Ward

**ASM REVENUE AND TAXATION: 7-0-0**

**YES:** Gipson, Ta, Bains, Carrillo, DeMaio, McKinnor, Quirk-Silva

**ASM APPROPRIATIONS: 11-0-4**

**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

**ABS, ABST OR NV:** Sanchez, Dixon, Ta, Tangipa

**UPDATED**

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