
UNFINISHED BUSINESS

Bill No: SB 86
Author: McNerney (D), et al.
Amended: 9/3/25 in Assembly
Vote: 21- Urgency

SENATE REVENUE AND TAXATION COMMITTEE: 5-0, 3/26/25
AYES: McNerney, Valladares, Ashby, Grayson, Umberg

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Dahle

SENATE FLOOR: 39-0, 6/4/25
AYES: 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
NO VOTE RECORDED: Reyes

ASSEMBLY FLOOR: 76-0, 9/8/25 - See last page for vote

SUBJECT: California Alternative Energy and Advanced Transportation
Financing Authority Act: sales and use tax exclusion

SOURCE: State Treasurer Fiona Ma

DIGEST: This bill extends the current January 1, 2026, sunset date for the California Alternative Energy and Advanced Transportation Authority's sales and use tax exclusion program to January 1, 2028, adds fusion energy as an eligible alternative source, and modifies the stated purpose of the program.

Assembly Amendments of 9/3/25 (1) delete the measure's expansion of the program's allocation limit from \$100 million to \$200 million annually, (2) reduce the duration of the bill's extension of the program from five years to two years

(January 1, 2031 to January 1, 2028), (3) add as a purpose of the program ensuring that California communities and workers benefit from projects receiving financial assistance from the program, (4) preclude the authority from approving an application from an applicant with more than 500 employees unless the applicant makes a certification with specified contents, and (5) make conforming changes.

ANALYSIS:

Existing law:

- 1) Imposes the sales tax on every retailer “engaged in business in this state” that sells tangible personal property, and requires them to register with the California Department of Tax and Fee Administration (CDTFA), as well as remit taxes collected from purchasers to CDTFA.
- 2) Applies the sales tax whenever a retail sale occurs, which is generally any sale other than one for resale in the regular course of business.
- 3) Provides that unless the purchaser pays the sales tax to the retailer, they are liable for the use tax, which is imposed on any person consuming tangible personal property in the state, and requires the purchaser to remit use tax to CDTFA.
- 4) Sets the state sales and use tax rate at 7.25% of the sales price of the property sold or used, of which 3.9375% flows to the state General Fund.
- 5) Allows cities, counties, and specified special districts to increase the sales and use tax, also known as district or transactions and use taxes, up to a 2% countywide cap, with several exceptions.
- 6) Exempts some items from the state and local sales and use tax, while others are exempt from the state sales tax, but not the local share.
- 7) Authorizes a state General Fund-only sales and use tax exemption for purchases of equipment used in manufacturing and research and development effective July 1, 2014, and ending July 1, 2022 (AB 93, (Committee on Budget, Chapter 69, Statutes of 2013; and SB 90, Galgiani, Chapter 70, Statutes of 2013). This exemption was expanded to include electric power generation and extended until January 1, 2030 (AB 398, Garcia, Chapter 135, Statutes of 2018), among other changes. This partial sales and use tax exemption:
 - a) Applies when taxpayers within specific North American Industrial Classification System codes purchase qualified tangible personal property:

to use in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property; to use in research and development; to maintain, repair, measure, or test any qualified property subject to the exemption; and, to generate, produce, or store and distribute electric power.

- b) Limits the exemption when purchasing equipment for use by a contractor.
 - c) Requires purchasers to provide an exemption certificate at purchase for the exemption to apply.
 - d) States that the exemption does not apply if the purchaser converts the equipment from an exempt use or removes it from the state within one year from the date of purchase.
 - e) Caps the exemption at \$200 million per taxpayer for any qualified personal property purchased during any calendar year.
- 8) Establishes the California Alternative Energy and Advanced Transportation Authority (CAEATFA) in the Office of State Treasurer, which provides financing through conduit or revenue bonds, loan guarantees, and loan loss reserves.
 - 9) Creates CAEATFA's board, composed of the State Treasurer, State Controller, Director of Finance, Chairperson of the Energy Commission, and President of the Public Utilities Commission.
 - 10) Excludes CAEATFA's purchases of tangible personal property from both the state and local shares of the sales and use tax.
 - 11) Directs CAEATFA to administer up to \$100 million annually in state and local sales and use tax exclusions subject to an application and evaluation process, and board approval, for:
 - a) Manufacturers of alternative source technology used for renewable electricity generation or advanced transportation, to sunset on January 1, 2021 (SB 71, Padilla, Chapter 10, Statutes of 2010). Defines "alternative source" to include devices or technologies used for a renewable electrical generation facility, a combined heat and power system, distributed generation and energy storage technologies eligible under the self-generation incentive program, or a facility designed for the production of renewable fuels, (the efficient use of which reduces the use of fossil or nuclear fuels), and energy efficiency devices or technologies that reduce the need for new

electric generation and reduce emissions of toxic and criteria pollutants and greenhouse gases;

- b) Advanced manufacturing until January 1, 2016, (SB 1128, Padilla, Chapter 677, Statutes of 2012), which was extended to January 1, 2021 (AB 1269, Dababneh, Chapter 788, Statutes of 2015); and
 - c) Property where at least 50% of its use is to process recycled feedstock intended to be reused in the production of another project, or using recycled feedstock in the production of another product or soil amendment, until January 1, 2021 (AB 199, Eggman, Chapter 768, Statutes of 2015).
- 12) Extends CAEATFA's authority to allocate sales and use tax exclusions under each of the above categories until January 1, 2026 (AB 1583, Eggman, Chapter 690, Statutes of 2019), increased the allocation ceiling to \$115 million for the 2022, 2023, and 2024 calendar years, and set aside \$15 million for projects that manufacture, refine, extract, process, or recover lithium (AB 209, Committee on Budget, Chapter 251, Statutes of 2022).
- 13) Allows CAEATFA to allocate exemptions to successful applicants; however, CAEATFA can only allocate exemptions to projects that produce such that the benefit to the state exceeds the benefit to the applicant.
- 14) Sets forth the following criteria for CAEATFA to evaluate applications to determine whether the benefit to the state will exceed the benefit to the applicant:
- a) The extent to which the project will create new, or result in the loss of, permanent, full-time jobs in California, including the average and minimum wage for each classification of full-time employees proposed to be hired or not retained.
 - b) To the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by federal or state law or regulation.
 - c) The extent of unemployment in the area in which the project is proposed to be located.
 - d) Any other factors CAEATFA deems appropriate.

This bill:

- 1) Extends the current January 1, 2026, sunset date for the California Alternative Energy and Advanced Transportation Authority's sales and use tax exclusion program to January 1, 2028.
- 2) Adds fusion energy as an eligible alternative source.
- 3) Modifies the purpose of the program to:
 - a) Specify that it promotes high-quality jobs.
 - b) Ensure that California communities and workers benefit from projects receiving financial assistance under the program.
- 4) Precludes the authority from approving an application from an applicant that has more than 500 employees (together with its parent corporation and subsidiaries) unless the applicant certifies that it and its contractors will:
 - a) Provide comparatively good wage and benefits to the employees of the applicant or its subcontractors, relative to the industrial sector of the applicant or its subcontractors, occupation, and labor market of those employees.
 - b) Invest in employee training, growth, and development, such as through comprehensive workforce training programs or apprenticeship programs.
 - c) Adopt mechanisms to include worker voice and agency in the workplace.
- 5) Makes technical and conforming changes.
- 6) Makes legislative findings and declarations to comply with Section 41 of the Revenue and Taxation Code, specifically to:
 - a) Set as its goal, purpose, and objective the creation of California-based jobs; and reduction in greenhouse gasses, air and water pollution, and energy consumption.
 - b) Direct CAEATFA to report to the Legislature on or before January 31, 2027, on the number and dollar value of exclusions under the program.

Background

Under the CAEATFA Sales and Use Tax Exclusion program, successful applicants must pass the “net benefits test,” based on statutory direction for CAEATFA to evaluate “the extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.” To implement this direction, CAEATFA contracted with Blue Sky Consulting, which constructed a model that assesses an application’s environmental and economic benefits against the foregone revenue from the sales and use tax exclusion. The net benefits test assumes that the applicant purchases more equipment because of the exclusion than they otherwise would have, and assesses whether the incremental economic activity, tax revenue, and environmental effects resulting from the exclusion exceed its foregone revenue. Only applications that pass the test advance to the CAEATFA board for consideration, and CAEATFA publishes each application in detail before its meetings. The CAEATFA Board must then approve all applications in public meetings held monthly.

Since the program began in 2010, CAEATFA’s board has approved 354 projects worth \$1.3 billion in exclusions through December 2024. Since 2015, the program has approved at least 21 projects annually and 282 projects in total. Advanced Manufacturing and Alternative Source projects each account for roughly 40% of the total approved amount during this period. Advanced Transportation and Recycled Resource Extraction projects account for the remaining 20%.

While some projects have received large Sales and Use Tax Exclusion awards in excess of \$10 million, awards are typically smaller. 22% received less than \$500,000, while 20% received between \$500,000 and \$1 million. Three percent exceeded \$20 million: six projects received between \$20 and \$30 million, two received between \$30 and \$40 million, and one received between \$40 and \$50 million. The largest recipient is Tesla Motors; the company has received eight awards for \$205.7 million in exclusions since 2011, but none since March 2020. In recent years, no award has exceeded \$20 million.

Comment

The Legislative Analyst’s Office (LAO) published “*Evaluation of Sales Tax Exemption for Certain Manufacturers*” in December 2018, which recommends that the Legislature allow CAEATFA’s program to expire. LAO grounds its recommendation on the program’s overlap with the state’s general exemption, and adds that the program’s application process is not worthwhile because it is narrow and hard to use. However, LAO notes that if streamlined, the program could be

transferred to CDTFA. LAO also recommended rejecting Governor Newsom's proposal as part of his 2021-22 Budget on similar grounds, and added that any expansion or addition would predominantly result in revenue losses for local governments.

On the other hand, according to a report by Blue Sky Consulting presented to the CAEATFA Board on February 15, 2025, the program's net benefits test ensures that allocated exclusions flow only to those projects that deliver measurable value. The report concludes:

"An analysis of actual program performance from 2015 to 2021 indicates that the Sales and Use Tax Exclusion (STE) Program has successfully driven investment in California's manufacturing sector while generating positive fiscal and environmental returns. The reviewed projects, representing over half of all approved during this period, claimed \$255 million in STE but collectively yielded \$373 million in fiscal benefits and \$26 million in environmental benefits, generating a net benefit of \$144 million."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- Annual General Fund (GF) revenue loss of \$100 million through 2030. Although sales and use tax (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).
- 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.
- 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.

- Absorbable costs to the Department of Tax and Fee Administration to notify taxpayers, update published information, and answer inquiries about the continued exclusion.

SUPPORT: (Verified 9/5/25)

California State Treasurer Fiona Ma (Source)
Aerospace and Defense Alliance of California
American Council of Engineering Companies, California
Anaergia Services, LLC
Best Express Foods, Inc.
Bioenergy Association of California
CalAsian Chamber of Commerce
California Bioenergy, LLC
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Compost Coalition
California Life Sciences Association
California Manufacturers & Technology Association
California Retailers Association
California State Association of Electrical Workers
California State Pipe Trades Council
Californians Against Waste
Calpine Corporation
City of Livermore
Commercial Real Estate Development Association, NAIOP of California
Danaher Diagnostics
East Bay Leadership Council
Energy Source Minerals, LLC
General Atomics - Energy Group
Hat Creek Bioenergy, LLC
Heirloom Carbon
Herrera & Company
Joby Aero, Inc.
Los Angeles County Business Federation
Los Angeles County Sanitation Districts
Mainspring Energy
Mariposa Bioenergy, LLC
Niagara Bottling, LLC
Oceanic Network

QuantumScape Battery, Inc.
Raven SR, Inc.
Sacramento Asian Chamber of Commerce
San Joaquin Valley Manufacturing Alliance
Sparkz, Inc.
Sustainable Rossmoor
United Autoworkers, UAW Region 6
WaterReuse California
We Think Global, Inc.
West Biofuels, LLC
Western States Council Sheet Metal Workers
Yosemite Clean Energy

OPPOSITION: (Verified 9/5/25)

California Teachers Association

ARGUMENTS IN SUPPORT: According to the author, “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 5th 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 OPPOSITION: According to the California Teachers Association (CTA), “According to the Department of Finance, the state provided over \$91.5 billion in General Fund expenditures in 2024-25 (including income, sales and use, corporation, 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 that this bill is well intentioned, CTA does not support this approach, as it would reduce overall funding for education. CTA believes that Proposition 98 should be protected from reductions through the creation of new or expanding tax expenditures.”

ASSEMBLY FLOOR: 76-0, 9/8/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lowenthal, Macedo, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Lee, McKinnor, Muratsuchi, Nguyen

Prepared by: Colin Grinnell / REV. & TAX. / (916) 651-4117
9/8/25 19:46:37

**** END ****