

Date of Hearing: July 7, 2025

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Lori D. Wilson, Chair

SB 86 (McNerney) – As Amended May 23, 2025

**SENATE VOTE:** 39-0

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

**SUMMARY:** Extends the January 1, 2026 sunset date for the California Alternative Energy and Advanced Transportation Authority's (CAEATFA) sales and use tax exclusion (SUT) program to January 1, 2031, expands the allocation limit from \$100 million to \$200 million annually, and adds nuclear fusion energy as an eligible alternative source. Specifically, **this bill:**

- 1) Extends the current January 1, 2026, sunset date for CAEATFA's SUT exclusion program to January 1, 2031.
- 2) Expands its allocation limit from \$100 million to \$200 million annually.
- 3) Adds as an eligible alternative source devices or technologies used for an electrical generation facility that uses nuclear fusion technology.
- 4) Makes legislative findings and declarations to comply with Section 41 of the Revenue and Taxation Code and specifically directs CAEATFA to report to the Legislature on or before January 31, 2027 on the net effects of the extension on jobs and economic output and the net environmental effects of the extension.

**EXISTING LAW:**

- 1) Imposes, under the SUT Law, a tax on retailers measured by the gross receipts from the sale of tangible personal property (TPP) sold at retail in this state, or on the storage, use, or other consumption in this state of TPP purchased from a retailer for storage, use, or other consumption in this state. (Revenue and Taxation Code Section 6001, *et seq.*)
- 2) Establishes CAEATFA in the Office of State Treasurer, which provides financing through conduit or revenue bonds, loan guarantees, loan loss reserves, and a state and local sales and use tax exemption for facilities that use alternative energy sources and technologies or engage in advanced manufacturing. (Public Resources Code (PRC) 26000, *et seq.*)
- 3) Directs CAEATFA to administer a SUT exclusion for renewable technology projects, including tangible personal 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, subject to an application and evaluation process, and board approval, and to administer a similar state and local sales and use tax for advanced manufacturing. Sunsets these provisions on January 1, 2026. (PRC 26003)

- 4) Authorizes, until January 1, 2026, CAEATFA to provide financial assistance to a participating party in the form of specified SUT exclusions for projects, including those that promote:
  - a) California-based manufacturing;
  - b) California-based jobs;
  - c) Advanced manufacturing;
  - d) Reduction of greenhouse gases; or,
  - e) Reduction in air and water pollution or energy consumption. (PRC Section 26011.8.)
- 5) Provides a SUT exclusion, until January 1, 2026, for the lease or transfer of title of TPP constituting a project to any contractor for use in the performance of a construction contract for a participating party that will use that property as an integral part of the approved project. (R&TC Section 6010.8.)
- 6) Prohibits the CAEATFA SUT exclusions from exceeding \$100 million for each calendar year, except as provided. (PRC Section 26011.8.)
- 7) Provides a separate partial SUT exemption, administered by the California Department of Tax and Fee Administration (CDTFA), for qualified TPP purchased for use by a qualified person to be used primarily:
  - a) In any stage of the manufacturing, processing, refining, fabricating, or recycling of TPP;
  - b) In research and development;
  - c) To maintain, repair, measure, or test any qualified TPP described above; and,
  - d) In the generation or production, or storage and distribution, of electric power.

The partial exemption also applies to qualified TPP purchased for use by a contractor to perform a construction contract for a qualified person that will use that property as an integral part of the following:

  - e) The manufacturing, processing, refining, fabricating, or recycling process;
  - f) The generation or production, or storage and distribution, of electric power; or,
  - g) As a research or storage facility for use in connection with those processes. (R&TC Section 6377.1.)
- 8) Requires any bill that authorizes a tax expenditure to contain all of the following:
  - a) Specific goals, purposes, and objectives that the tax expenditure will achieve;
  - b) Detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets the goals, purposes, and objectives stated in the bill; and,
  - c) Specified data collection requirements to enable the Legislature to determine whether the tax expenditure is meeting, failing to meet, or exceeding those specific goals, purposes, and objectives. (R&TC Section 41.)

**FISCAL EFFECT:** According to the Senate Committee on Appropriations:

The California Department of Tax and Fee Administration (CDTFA) has yet to update its revenue estimate for this amended version of the bill. Previously, CDTFA estimated that raising the annual allocation limit to from \$100 million to \$300 million, and eliminating the sunset, would result in state and local sales and use tax (SUT) revenue losses of \$100 million in 2024-25, \$250 million in 2025-26, and \$300 million annually thereafter relative to current law. Of these amounts, the General Fund revenue loss would be \$46 million in 2024-25, \$113 million in 2025-26 and \$136 million annually thereafter. The remainders would represent a reduction in local SUT revenue. However, under the Constitution, the General Fund is required to offset a portion of the reduced local sales and use tax revenue. Specifically, the General Fund would have to backfill the 2011 Local Revenue Fund by up to \$36 million annually.

The current amended version of a \$200 million allocation limit would lower the revenue losses cited above. The exact magnitude is unknown, and again has yet to be determined by CDTFA, but the state and local SUT revenue loss would likely reach \$200 million (\$91 million General Fund) annually by the end of the amended bill's five-year sunset extension window. The 2011 Local Revenue Fund backfill amount would likely be roughly \$24 million annually.

CDTFA assumes that CAEATFA will reach the maximum allocation limit annually. However, the department notes that, to the extent that applicants whose project qualified for a CAEATFA exclusion would have claimed the state General-Fund only exemption for manufacturing and research and development equipment, its estimates of revenue loss may be overstated.

Finally, CAEATFA would incur costs in the hundreds of thousands of dollars annually to review and process additional applications, ensure compliance, and report program information to the Legislature. These costs would generally be offset by application fees.

**COMMENTS:** The Legislature created CAEATFA in 1980 and it is housed in the State Treasurer's Office. CAEATFA's sales and use tax exclusion program is intended to promote the creation of California-based manufacturing jobs that will stimulate the California economy, and to incentivize the manufacturing of green technologies that help reduce greenhouse gases, as well reduce air and water pollution, or energy consumption.

In previous years, CAEATFA awarded \$100 million in SUT exclusions annually to certain manufacturers to assist them in purchasing machinery and equipment to retain and expand high-end manufacturing across the State – growing jobs, regions and communities, and the green economy. To ensure a broad distribution of awards, the annual allocation was divided into three different pools of SUT exclusions: (1) \$20 million small-project pool for projects requesting \$2 million or less, (2) \$65 million general pool (capped at \$10 million), and (3) \$15 million large-project pool for applicants with projects requesting more than \$10 million.

In 2022, CAEATFA was authorized an additional \$15 million in SUT exclusions to assist lithium extraction projects, bringing the total to \$115 million in exclusions for the year.

Under the CAEATFA SUT 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. The percentage of exclusions awarded by project types since inception are advanced manufacturing (42%), alternative source (29%), advanced transportation (26%), and recycled resource extraction (3%).

While some projects have received large SUT exclusion awards in excess of \$10 million, awards are typically smaller. Twenty-two percent received less than \$500,000, while 20% received between \$500,000 and \$1 million. Three percent exceed \$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.

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 the California Department of Tax and Fee Administration. 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."

*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."

State Treasurer Fiona Ma, *the sponsor of this bill*, states "This program has proven to be a strategic investment, marrying our economic and environmental goals, and a necessary incentive for many companies of nascent technologies to be able to move forward with their programs. STE program participation—and—oversubscription has increased each year...Without SB 86's passaged, the Sales & Tax Exclusion program will sunset on January 1, 2026. Allowing the sunset to expire would jeopardize the retention and creation of thousands of jobs and future economic growth throughout California."

The California Manufactures and Technology Association *writing in support* states "SB 86 is a vital tool for California manufacturers. By providing financial assistance to these innovative companies, California will be able to retain and expand our in-state manufacturing capabilities. CAEATFA has proven impactful in creating new jobs and advancing the State towards its energy goals. California can create an influx of new production investment if we simply remove one of the tax burdens to scale up operations."

The California Teachers Association *writing in opposition* states "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 percent 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"

### **Prior legislation**

AB 2400 (Luz Rivas of 2024) extended the SUT exclusion for qualifying projects to January 1, 2031. This bill was held in the Assembly Appropriations Committee.

AB 209 (Committee on Budget), Chapter 251, Statutes of 2022 authorized the SUT exclusion program to award an additional \$15 million in SUT for projects that manufacture, refine, extract, process, or recover lithium for years 2022, 2023, and 2024.

AB 1583 (Eggman), Chapter 690, Statutes of 2019 extended CAEATFA's sunset for sales and use tax exclusion from January 1, 2021 to January 1, 2026.

AB 176 (Cervantes), Chapter 672, Statutes of 2019 requires consideration of the extent to which a project will result in the loss of permanent, full-time jobs in California, and collection of wage data for each classification of full-time employees proposed to be hired or not retained.

AB 199 (Eggman), Chapter 768, Statutes of 2015 further expanded the scope of the SUT exclusion program to include projects that process or utilize recycled feedstock.

SB 1128 (Padilla), Chapter 677, Statutes of 2012 expanded the SUT exclusion program to include Advanced Manufacturing projects and placed an annual limit of \$100 million.

SB 71 (Padilla), Chapter 10, Statutes of 2010 directed CAEATFA to implement the Sales and Use Tax Exclusion Program and authorized CAEATFA to approve eligible projects for an SUT exclusion on equipment and machinery (qualified property) used for the “design, manufacture, production, or assembly” of either advanced transportation technologies or alternative energy source products, components or systems, as defined.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Aerospace and Defense Alliance of California  
American Council of Engineering Companies, California  
Cal-Asian Chamber of Commerce  
California Business Properties Association  
California Business Roundtable  
California Compost Coalition  
California Manufacturers and Technology Association  
California Retailers Association  
California State Association of Electrical Workers  
California State Pipe Trades Council  
California State Treasurer  
Californians Against Waste  
Calpine Corporation  
City of Livermore  
Commercial Real Estate Development Association, NAIOP of California  
Heirloom Carbon  
Los Angeles County Sanitation Districts  
Sustainable Rossmore  
Watereuse California  
Western States Council Sheet Metal, Air, Rail and Transportation

### **Opposition**

California State Association of Counties (CSAC)  
California Teachers Association  
League of California Cities

**Analysis Prepared by:** Farra Bracht / TRANS. / (916) 319-2093