

# SENATE BILL REPORT

## SB 5515

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As Reported by Senate Committee On:  
Agriculture, Water, Trade & Economic Development, February 16, 2017  
Ways & Means, April 3, 2017

**Title:** An act relating to encouraging job creation and retention in rural economies through the transparent and accountable provision of targeted tax relief for silicon smelters.

**Brief Description:** Encouraging job creation and retention in rural economies through the transparent and accountable provision of targeted tax relief for silicon smelters.

**Sponsors:** Senator Warnick.

**Brief History:**

**Committee Activity:** Agriculture, Water, Trade & Economic Development: 2/07/17, 2/16/17 [DP-WM, DNP, w/oRec].  
Ways & Means: 3/30/17, 4/03/17 [DP, DNP, w/oRec].

**Brief Summary of Bill**

- Establishes a public utility tax and business and occupation tax credit for a utility that sells manufactured gas, natural gas, or electricity to a silicon smelter.
- Allows for a brokered natural gas use tax exemption to silicon smelters for the use of manufactured or natural gas delivered directly through a pipeline.

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**SENATE COMMITTEE ON AGRICULTURE, WATER, TRADE & ECONOMIC DEVELOPMENT**

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Warnick, Chair; Hawkins, Vice Chair; Brown, Honeyford, Pearson, Short, Takko and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senator McCoy.

**Minority Report:** That it be referred without recommendation.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Signed by Senator Wellman, Assistant Ranking Minority Member.

**Staff:** Karen Epps (786-7424)

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**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** Do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Bailey, Becker, Fain, Miloscia, Padden, Rivers, Schoesler, Warnick and Zeiger.

**Minority Report:** Do not pass.

Signed by Senators Rolfes, Assistant Ranking Minority Member, Operating Budget; Hasegawa and Pedersen.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Ranker, Ranking Minority Member; Frockt, Assistant Ranking Minority Member, Capital Budget; Billig, Carlyle, Conway, Darneille and Keiser.

**Staff:** Dean Carlson (786-7305)

**Background:** Business and Occupation (B&O) Tax. Washington's major business tax is the B&O tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay a B&O tax even though they may not have any profits or may be operating at a loss. A business may have more than one B&O tax rate, depending on the types of activities conducted. Major tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and activities not classified elsewhere. Several lower rates apply to specific business activities.

Public Utility Tax (PUT). Income from utility operations is taxed under the PUT in lieu of the B&O tax. Other income of the utility, such as retail sales of tangible personal property, is subject to the B&O tax. The PUT applies only on sales to consumers. Five different rates apply, depending upon the specific utility activity. The current rates, including permanent surtaxes, are as follows:

- water distribution businesses - 5.029 percent;
- light and power businesses - 3.873 percent;
- telegraph, natural gas, and sewerage businesses - 3.852 percent;
- urban transportation and watercraft vessels under 65 feet in length - 0.642 percent; and
- railroads, railroad car companies, motor transportation, and all other public service businesses - 1.926 percent.

Brokered Natural Gas Use Tax. A use tax is levied on businesses that use natural or manufactured gas within the state if the gas is shipped directly to the business through a pipeline. The use tax rate is equal to the PUT rate for gas distribution businesses. The use tax is not levied on gas that is delivered by some other means for which the PUT tax has already been paid.

**Summary of Bill:** A utility that provides manufactured gas, natural gas, or electricity to a silicon smelter is eligible for a PUT credit or B&O tax credit equal to the gross income from the sale of the electricity or gas to the silicon smelter multiplied by the PUT rate or B&O tax rate, respectively, provided that the contract for the sale of electricity or gas to the silicon smelter specifies that the price charged will be reduced by an amount equal to the credit. Silicon smelter means a manufacturing facility that processes silica into high-purity silicon used exclusively in components of photovoltaic solar energy systems.

The PUT and B&O tax credits available to a utility provider of gas or electricity to a silicon smelter do not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process. A silicon smelter that uses manufactured or natural gas that was delivered directly through a pipeline is exempt from the brokered natural gas use tax.

A silicon smelter that receives the benefit of the PUT and B&O tax credits available to a utility provider must file an annual survey with the Department of Revenue (DOR). A silicon smelter must repay an amount equal to the entire economic benefit it received from the tax credits for the previous two calendar years if:

- the average number of employment positions at the silicon smelter is less than 100, as reported to the Employment Security Department for the previous two calendar years; and
- the average annual wage for all employment positions is equal to or less than the average annual wage for the previous two calendar years for the county in which the silicon smelter is located.

DOR must make a determination as to whether or not repayment by the silicon smelter is required by August 31, 2023. If DOR determines that repayment is necessary, the tax preference expires January 1, 2024. If DOR determines that repayment is not necessary, the tax preference expires July 1, 2027.

The tax preferences established in the Act must be reviewed by the Joint Legislative Audit and Review Committee (JLARC) during the committee's normal ten-year review cycle. JLARC must look at the number of beneficiaries receiving the PUT and B&O tax credits and smelters receiving the benefit through reduced prices of electricity and gas. JLARC must also include specific job metrics as part of the review. JLARC is not required to perform a tax preference evaluation if the tax preference expires on January 1, 2024.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Agriculture, Water, Trade & Economic Development):** PRO: This bill will bring jobs to rural northeast Washington. The impact to the county and those schools when the Northwest Alloys plant closed and jobs were lost have

caused those communities and schools to continue to struggle. Restarting the plant in a different way will mean up to 150 fulltime, family-wage jobs. This will reinvigorate the community. This bill requires that the jobs pay at least 10 percent above the average annual wage in the county. The project will use about 90 mega watts of power, so it is a critical cost component. The smelter expects to produce 60,000 tons of silicon metal year. Estimated capital costs for the project are about \$325 million, with about 300 construction workers at the plant for about 20 months in order to build the plant. Once in operation, the plant will employ 130 to 150 fulltime staff, probably 100 to 120 hourly employees and 20 to 30 salaried employees, with average annual wages of around \$50,000. The plant expects to purchase about 100,000 tons of wood chips locally a year. Sales revenue is expected to be \$200 million per year starting in 2020. This smelter could provide silicon metal for a facility currently located in Moses Lake, which would be beneficial for the facility. This project will take over an existing brownfield site. This project is a great opportunity for Stevens County and the region. This bill will help to get this project to locate in Stevens County and infrastructure is in place to support the project. This project will help the existing timber industry and the timber industry will be able to support this project. In 2015, Chewelah was deemed by the American Consumer Survey as the poorest town in Washington. This bill would mean so much to Chewelah and Stevens County. This bill will bring more students to the Chewelah school district as well as neighboring school districts.

**Persons Testifying (Agriculture, Water, Trade & Economic Development):** PRO: Senator Judy Warnick, Prime Sponsor; Senator Shelly Short, 7th Leg. District; Christopher Bowes, REC Silicon; James May, HiTest Sand Inc.; Jayson Tymko, HiTest Sand Inc.; Wes McCart, Commissioner, Stevens County; Dorothy Knauss, Mayor, City of Chewelah; Rick Linehan, Superintendent, Chewelah School District.

**Persons Signed In To Testify But Not Testifying (Agriculture, Water, Trade & Economic Development):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: We have a previously abandoned site in Eastern Washington that a company is looking at purchasing for a silicon smelter. They will be supplying other Washington companies. Our company is currently focused on getting the site procured by the end of the year. The estimated cost to build the plant is about \$350 million which includes costs to our mining operation in Canada. We would have about \$1 million in B&O tax paid per year. We will also spend about \$20 million on natural gas. The average wage will be \$46,000 for about 140 employees. We would be thrilled to put people to work in that neck of the woods.

**Persons Testifying (Ways & Means):** PRO: Senator Judy Warnick, Prime Sponsor; Bob Guenther, International Brotherhood of Electrical Workers 77; Wes McCart, citizen; Jim May, citizen.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.