

# HOUSE BILL REPORT

## SSJM 8009

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**As Passed House:**  
February 28, 2024

**Brief Description:** Concerning the federal harbor maintenance tax.

**Sponsors:** Senate Committee on Business, Financial Services, Gaming & Trade (originally sponsored by Senators Hasegawa, Wagoner, Dozier, Fortunato, Frame and Stanford).

**Brief History:**

**Committee Activity:**

Finance: 2/15/24, 2/23/24 [DP].

**Floor Activity:**

Passed House: 2/28/24, 83-12.

**Brief Summary of Substitute Joint Memorial**

- Requests that the federal government reform the Harbor Maintenance Tax.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 12 members: Representatives Berg, Chair; Street, Vice Chair; Jacobsen, Assistant Ranking Minority Member; Barnard, Chopp, Ramel, Santos, Springer, Thai, Walen, Wilcox and Wylie.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Orcutt, Ranking Minority Member.

**Staff:** Kristina King (786-7190).

**Background:**

The Harbor Maintenance Tax (HMT) was created based on The Water Resource Act of

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1986. The fee is intended to require those who benefit from maintenance of United States ports and harbors to share the cost of the maintenance. The fee became effective on April 11, 1987, and has been assessed on port use associated with imports, exports, and movement of cargo and passengers between domestic ports.

On March 31, 1998, the United States (US) Supreme Court declared that the HMT collected on exports were unconstitutional and as a result the HMT is no longer collected on exports. The HMT is only collected on imports, domestic shipments, Foreign-Trade Zone admissions, and passengers. The tax is assessed based on the value of the shipment. The importers are required to pay 0.125 percent of the value of the commercial cargo shipped if the loading and unloading occurs at a port. The HMT is not collected on cargo imported or transported via air. This fee may be avoided by importers seeking to bring products into the United States by redirecting container traffic through Canadian ports such as the Port of Vancouver or the Port of Prince Rupert and shipping the cargo by rail into the United States.

Once the fee is collected by US Customs and Border Patrol, it is deposited into the Harbor Maintenance Fund, from which Congress may appropriate amounts to pay for harbor maintenance, development projects, and related expenses. The value of imports has exceeded the number of congressional appropriations of the funds, resulting in a surplus of more than \$9 billion in unused monies. The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 increased funding and expanded the uses of funds for the HMT donor ports. This includes ports like those in Seattle and Tacoma that have naturally deep channels that require little to no traditional maintenance and provided a path towards full spending of the prior year's HMT revenues.

### **Summary of Joint Memorial:**

Congress is requested to pass, and the President to sign, legislation reforming the HMT. The specified reforms are as follows:

- Congress is to direct the use of country-of-origin rules to apply the HMT to sea cargo coming into Canada bound for the United States.
- The full amount of HMT revenues must be appropriated with the budget cap adjustments enacted in the CARES Act of 2020.
- Specified amounts be allocated for donor and energy transfer ports consistent with the Water Resources Development Act of 2020.
- The US Army Corps of Engineers (USACOE) is to allocate in its annual workplan 12 percent of annual appropriations to eligible donor and energy transfer ports.
- The USACOE is to collect appropriate data and reinstate publication of annual reports that were terminated in fiscal year 2006 on the status of the Trust Fund.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:**

**Staff Summary of Public Testimony:**

(In support) Due to the ability of many importers to avoid paying the Harbor Maintenance Tax by routing their shipments through Canada and Mexico, Washington, the most trade-dependent state, is losing 50 percent of freight that could be arriving at its ports. This not only hurts those in western Washington, but also eastern parts of the state where exporters, like farmers, rely on consistent vessel arrivals and empty shipping containers to be able to reload and use for the transportation of their own goods. This is an issue of competitiveness between the United States, Canada, and Mexico and creates a loophole in the free trade principles of the North American Free Trade Agreement. The reforms made at the federal level in 2020 were a good step forward but do not go far enough. Washington would be able to enhance the state's economy significantly if the federal government would level the playing field on how it implements the tax. Washington also deserves its fair share of the tax, as the average vessel results in \$1 million in revenue for the Harbor Maintenance Fund and the state does not see most of those monies in the amount received through Congressional appropriation.

(Opposed) None.

**Persons Testifying:** Senator Bob Hasegawa, prime sponsor; Brock Graber, International Longshoremen and Warehouse Union Local 23; and Sean Eagan, The Northwest Seaport Alliance.

**Persons Signed In To Testify But Not Testifying:** None.