

# SENATE BILL REPORT

## HB 1347

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As of March 14, 2011

**Title:** An act relating to sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue

**Brief Description:** Concerning sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue.

**Sponsors:** Representatives Hunter and Orcutt; by request of Department of Revenue.

**Brief History:** Passed House: 3/05/11, 97-0.

**Committee Activity:** Ways & Means: 3/10/11.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Dianne Criswell (786-7433)

**Background:** Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property, digital products, and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location. The average local tax rate is 2 percent, for an average combined state and local tax rate of 8.5 percent.

A retail sales and use tax exemption applies to new or replacement machinery and equipment (M&E) used in a manufacturing or research and development operation by a manufacturer or processor for hire. The exemption also applies to services, such as installation or repair services, rendered with respect to the M&E. The exemption does not apply to short-lived tools, hand tools, and consumable supplies.

**Summary of Bill:** The sales and use tax exemption for M&E is limited to businesses that are taxed under the manufacturing category for business and occupation tax as a clarification of

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the original legislative intent of the exemption. The exemption does not apply to M&E primarily used for activities that are taxable under the state public utility tax.

Public research institutions are allowed a sales and use tax exemption for M&E used for research and development operations. The exemption includes installation, repair, and other services related to the M&E. Public research institutions eligible for the exemption include the University of Washington, Washington State University, Western Washington University, Central Washington University, Eastern Washington University, and The Evergreen State College. Any public research institution claiming the exemption must file an annual survey with the Department of Revenue providing employment-related information for the prior calendar year, the general areas of research and development where exempt M&E is used, and the amount of the tax exemption claimed in the prior calendar year.

The act applies retroactively to open assessment periods as well as prospectively.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:** PRO: Since 1995 manufacturers and processors for hire have used this preference. Recently, public utilities have claimed this, despite that they are taxable under PUT. These utilities do manufacture fertilizer, and for these activities, have received the M&E. They have further argued that the M&E should apply more broadly to other portions of their operations, leading to refund requests. One of these refund requests was for \$23 million. That argument has now been resolved, but the argument points out the need for this clarification. The other aspect of this bill relates to M&E for public research institutions' activities in technology, research, and development. This is a good clarification and will resolve what should and should not qualify for a governmental activity under the M&E.

OTHER: We believe we have an agreement with the Department of Revenue (DOR) to resolve our concerns about the retroactive application of this legislation.

**Persons Testifying:** PRO: Drew Shirk, DOR.

OTHER: Dan Coyne , Washington State University.