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## Finance Committee

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### SSJM 8009

**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).

<p style="text-align: center;"><b>Brief Summary of Substitute Joint Memorial</b></p> <ul style="list-style-type: none"><li>• Requests that the federal government reform the Harbor Maintenance Tax.</li></ul>
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**Hearing Date:** 2/15/24

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

**Background:**

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

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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 Bill:**

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 FY 2006 on the status of the Trust Fund.

**Appropriation:** None.

**Fiscal Note:** Not requested.