

# HOUSE BILL REPORT

## HB 1443

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### As Passed House:

March 7, 2007

**Title:** An act relating to a state public utility tax deduction for certain transportation activities with respect to agricultural commodities.

**Brief Description:** Creating a public utility tax deduction for the transportation of agricultural commodities.

**Sponsors:** By Representatives Grant, Buri, Blake, Walsh, B. Sullivan, Linville, Hailey, Newhouse and O'Brien.

### Brief History:

#### Committee Activity:

Finance: 2/7/07, 3/2/07 [DP].

#### Floor Activity:

Passed House: 3/7/07, 96-0.

### Brief Summary of Bill

- Authorizes a deduction under the public utility tax under certain conditions for amounts received from transporting agricultural commodities to interim storage facilities, if the commodities are ultimately shipped by vessel out of state.

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 8 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway, Ericks, Roach and Santos.

**Minority Report:** Do not pass. Signed by 1 member: Representative McIntire.

**Staff:** Mark Matteson (786-7145).

### Background:

Publicly and privately-owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. The tax rate depends on the utility

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classification. Such classifications include motor transportation businesses, which include trucking and busing companies that haul persons or property of others for hire, and railroad businesses, among others. Motor transportation and railroad businesses are taxed at 1.926 percent. Revenues are deposited to the State General Fund.

A deduction from the PUT is allowed for amounts received from the transportation of commodities from points of origin within the state to a port facility, if from the point of delivery the commodities are forwarded to interstate or foreign destinations, without any sort of intervening transportation.

Through guidance issued by excise tax advisory in 1984, the Department of Revenue (DOR) has allowed trucking companies to claim this deduction when transporting grain to interim facilities under certain conditions. The trucker is required to obtain from the grain dealer a certification that 96 percent or more of the grain delivered by the trucker will then be shipped directly out of state or else to an export facility, operated by the dealer, for shipment to foreign or interstate destinations without intervening transportation. The dealer must also certify that more than 96 percent of all grain received at the interim storage facility in the preceding year was shipped by vessel in its original form to foreign or interstate destinations.

The DOR has recently notified affected stakeholders that the application of the deduction as suggested in the guidance lacks proper statutory authority.

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**Summary of Bill:**

For the purposes of determining taxable income under the PUT, a deduction is allowed under certain conditions for amounts derived from the transportation of agricultural commodities from points of origin to interim storage facilities and ultimately bound for interstate or foreign destinations. No deduction may be claimed unless the commodity broker that operates the interim storage facility also operates the port facility from which the commodity is exported.

To obtain the deduction, the firm that transports the commodity from the point of origin must obtain a certificate from the commodity broker that at least 96 percent of the type of agricultural commodity received by the broker at the interim facility in the previous calendar year was shipped by vessel in original form to interstate or foreign destinations. The broker must also certify that, for any of the commodity that is then transported to export facilities, the facilities are operated by the broker and the commodity will then in fact be shipped by vessel in original form to interstate or foreign destinations.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) The Department of Revenue supports this. We reviewed the related rule recently and discovered that a long-standing exemption for intervening hauls lacked proper statutory authority. Without this legislation, such transportation would be taxable when we cancel the rule on July 1.

This affects areas in southeast Washington, where otherwise interstate transportation of the grain would have an advantage.

We would just like to keep things the way they are now.

(Opposed) None.

**Persons Testifying:** Drew Shirk, Department of Revenue; and Heather Hansen, Washington Association of Wheat Growers.

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