

# HOUSE BILL REPORT

## ESHB 1521

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### As Passed Legislature

**Title:** An act relating to supporting warehousing and manufacturing job centers.

**Brief Description:** Supporting warehousing and manufacturing job centers.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Entenman, Sullivan, Callan, Jacobsen, Taylor, Stokesbary, Gregerson and Ormsby).

#### **Brief History:**

##### **Committee Activity:**

Finance: 2/16/21, 2/19/21 [DPS].

##### **Floor Activity:**

Passed House: 3/3/21, 97-0.

Passed Senate: 4/6/21, 44-5.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Creates the Manufacturing and Warehousing Job Centers Account.
- Provides for mitigation payments for the support of manufacturing and job centers in manufacturing and warehousing qualified local taxing districts negatively impacted by the Streamlined Sales and Use Tax Agreement.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Tracey O'Brien (786-7152).

**Background:**

Retail Sales and Use Tax.

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 user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Nexus.

Nexus is required before a taxing jurisdiction can impose taxes on an entity. In the case of retail sales taxes, nexus is necessary in determining whether an out-of-state business selling products into a state is liable for the collection of retail sales taxes for that state. As the result of a United States Supreme Court decision, Washington adopted requirements imposing retail sales tax collection requirements, as well as business and occupation tax obligations, on out-of-state sellers.

Streamlined Sales and Use Tax Agreement.

In 2007 legislation was enacted fully adopting the Streamlined Sales and Use Tax Agreement (SSUTA).

The SSUTA includes provisions for determining where a sale is deemed to occur for local sales and use tax purposes. As part of the legislation, the Streamlined Sales and Use Tax Mitigation Account was created to mitigate the effect of the change in sourcing rules to negatively impacted local jurisdictions. Each July 1, the State Treasurer must transfer an amount determined by the Department of Revenue (DOR) to fully mitigate negatively impacted local jurisdictions. The DOR determines each local jurisdiction's annual losses. Distributions are made quarterly representing one-fourth of a jurisdiction's annual loss less voluntary compliance revenue from the previous quarter.

In 2017 the Legislature repealed local mitigation payments, effective October 1, 2019. Until that time, payments must be adjusted to reflect the impact of marketplace fairness on local tax revenues and will be made only to cities, counties, and public facilities districts. Selected jurisdictions may have qualified for mitigation payments under the 2019-2021 Omnibus Operating Budget.

House Bill 1948.

During the 2020 Legislative Session, the Legislature passed Engrossed House Bill 1948 (EHB 1948). Under EHB 1948, qualified local taxing districts negatively impacted by the SSUTA receive annual mitigation payments each July 1. To qualify, a local taxing district

must be a city and have received a mitigation payment of at least \$150,000 in calendar year 2018 from the Streamlined Sales and Use Tax Mitigation Account (Mitigation Account). In addition, the taxing district must continue to have local sales tax revenue loss due to the sourcing provisions in the SSUTA.

Beginning July 1, 2020, the DOR must calculate each qualified taxing district's annual loss. The annual loss is calculated by comparing at least 12 months of tax return data from before and after July 1, 2008. Each quarter, distributions are made from the Warehousing and Manufacturing Jobs Center Account (Account) created in this act. The distributions from the Account will be in an amount equal to one-fourth of the taxing district's annual loss. The DOR will reduce this amount by the voluntary compliance revenue and marketplace fairness revenue.

On April 3, 2020, the Governor vetoed EHB 1948 in its entirety. In his veto statement, the Governor cited dramatically changed circumstances since the approval of the 2020 Supplemental Operating Budget by the Legislature as a result of the COVID-19 pandemic.

**Summary of Engrossed Substitute Bill:**

Qualified local taxing districts negatively impacted by the SSUTA may receive annual mitigation payments each July 1. To qualify, a local taxing district must be a city and have received a quarterly streamlined sales tax mitigation payment of at least \$60,000 on June 30, 2020.

Beginning July 1, 2021, the DOR must provide each qualified local taxing district a quarterly mitigation payment equal to the payment that was provided to that taxing district on June 30, 2020. Beginning July 1, 2022, the amount of the quarterly mitigation payments must be reduced by 20 percent from the previous year's payment that same quarter for each qualified local taxing district.

The quarterly distribution must be made from the Account. Expenditures from the Account may be used only for the purpose of mitigating the negative fiscal impacts to local taxing jurisdictions as the result of sourcing changes resulting from the SSUTA.

Payments end July 1, 2026.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2021.

**Staff Summary of Public Testimony:**

(In support) In 2008 this state changed from distribution-based sourcing for retail sales and use taxes to destination-based sourcing. This created winners and losers. The Legislature recognized this and created the mitigation payment program to address the lost revenues to the manufacturing, warehousing, and distribution centered communities.

Many of these communities have developed around the proximity to ports, airports, rail lines, and transportation hubs, and they supply the rest of the state with everything from hamburgers to fleece. These jurisdictions must continually invest in and repair an infrastructure base that receives heavy freight traffic. This is an investment that benefits the rest of the state. The prosperity of Washington depends on a healthy supply chain that these communities provide through their investments.

The lost revenue to these jurisdictions is significant and the Legislature has recognized that with the passage of EHB 1948. However, the Governor, facing the uncertainty of the pandemic, vetoed the bill. The economic outlook for the state is clearer after almost a year and it makes sense to restore mitigation payments to these seven jurisdictions to address a tax structure that leaves them at a disadvantage.

In addition, the payments automatically reduce over time before expiring, thereby reducing the administrative requirements for the DOR.

(Opposed) None.

**Persons Testifying:** Representative Entenman, prime sponsor; Nancy Backus, City of Auburn; Carolyn Logue, South Sound Chamber of Commerce Legislative Coalition; Dana Ralph, City of Kent; Mary Lou Pauly, City of Issaquah; Bill Pugh, City of Sumner; Allan Ekberg, City of Tukwila; Sean Eagan, Northwest Seaport Alliance; and Briahna Murray.

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