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**SUBSTITUTE SENATE JOINT MEMORIAL 8009**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senate Business, Financial Services, Gaming & Trade (originally sponsored by Senators Hasegawa, Wagoner, Dozier, Fortunato, Frame, and Stanford)

1 TO THE HONORABLE JOSEPH R. BIDEN, JR., PRESIDENT OF THE UNITED  
2 STATES, AND TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE  
3 HOUSE OF REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF  
4 REPRESENTATIVES OF THE UNITED STATES, IN CONGRESS ASSEMBLED:

5 We, your Memorialists, the Senate and House of Representatives of  
6 the State of Washington, in legislative session assembled,  
7 respectfully represent and petition as follows:

8 WHEREAS, The United States created the harbor maintenance tax  
9 under the Water Resource Development Act of 1986; and

10 WHEREAS, The harbor maintenance tax is an ad valorem tax on goods  
11 imported into the United States through a United States port; and

12 WHEREAS, The North American Free Trade Agreement was established  
13 in 1994 to create a broad North American marketplace where goods  
14 could move freely between the United States, Canada, and Mexico; and

15 WHEREAS, The North American Free Trade Agreement and now its  
16 successor agreement the United States, Mexico, and Canada Agreement  
17 has failed to consider the impact of the harbor maintenance tax on  
18 United States ports; and

19 WHEREAS, The North American Free Trade Agreement and United  
20 States, Mexico, and Canada Agreement have created an incentive for  
21 importers of foreign goods to land cargo in Canada or Mexico and then  
22 use rail or trucks to move that cargo to the United States to avoid  
23 the harbor maintenance tax; and

1       WHEREAS, The harbor maintenance tax is not collected on  
2 transpacific and transatlantic cargo shipped to the United States via  
3 rail or roads from ports in Mexico and Canada; and

4       WHEREAS, The ability to move transpacific and transatlantic cargo  
5 through Canadian ports and avoid paying the harbor maintenance tax  
6 incentivizes diversion of cargo away from United States ports; and

7       WHEREAS, The federal maritime commission inquiry into the harbor  
8 maintenance tax found that up to half of United States bound  
9 containers coming into Canada's west coast ports could revert to  
10 using United States west coast ports if United States importers were  
11 relieved from paying the tax; and

12       WHEREAS, Current United States law does not require the revenues  
13 raised through the harbor maintenance tax to be fully spent on harbor  
14 maintenance-related investments, collections have far exceeded fund  
15 appropriation and surplus collections, resulting in a surplus of  
16 billions of dollars in the harbor maintenance trust fund; and

17       WHEREAS, Revenue raised through the harbor maintenance tax pays  
18 for dredging and other maintenance costs, with significant amounts  
19 being spent for dredging at east coast, gulf coast, and Columbia  
20 river ports; and

21       WHEREAS, Certain deep water ports on the west coast that require  
22 no or little dredging, including the Northwest Seaport Alliance  
23 consisting of the ports of Seattle and Tacoma, receive just over a  
24 penny on every dollar of harbor maintenance tax paid by shippers who  
25 use their ports; and

26       WHEREAS, The Columbia river channel is critical to maintain  
27 global trade and the port of Vancouver USA serves as the largest  
28 wheat export gateway in the nation; and

29       WHEREAS, With the recent widening of the Panama Canal, Washington  
30 ports face increasing competition for maritime goods bound for the  
31 United States; and

32       WHEREAS, Washington ports are ready to compete on a level playing  
33 field to efficiently move goods to market; and

34       WHEREAS, Congress passed substantial harbor maintenance tax  
35 reform legislation in 2020, the implementation of which requires  
36 additional actions by congressional appropriators and the US Army  
37 Corps of Engineers;

38       NOW, THEREFORE, Your Memorialists respectfully pray that:

39       (1) Congress direct the use of country-of-origin rules to be  
40 applied to the harbor maintenance tax so that United States bound

1 goods that currently still pay customs in the United States would  
2 also continue to pay the harbor maintenance tax in order to eliminate  
3 the current incentive that is leading to significant cargo diversion  
4 from United States ports to Canadian ports in violation of the spirit  
5 of the North American Free Trade Agreement.

6 (2) Congress appropriate the full amount of annual harbor  
7 maintenance tax revenues and unspent tax collections from the harbor  
8 maintenance trust fund consistent with the budget cap adjustments  
9 enacted in the CARES Act and the Water Resources Development Act of  
10 2020.

11 (3) Congress direct the US Army Corps of Engineers to allocate  
12 the specified amounts for donor and energy transfer ports consistent  
13 with the Water Resources Development Act of 2020 and appropriate the  
14 amounts specified in section 101 of the Water Resources Development  
15 Act of 2020 to carry out subsection (c) of section 2106 of the Water  
16 Resources Reform and Development Act of 2014.

17 (4) The US Army Corps of Engineers allocate in its annual work  
18 plan 12 percent of annual harbor maintenance trust fund  
19 appropriations directly to eligible donor and energy transfer ports,  
20 as well as additional amounts to carry out subsection (c) of section  
21 2106 of the Water Resources Reform and Development Act of 2014.

22 (5) The US Army Corps of Engineers shall collect appropriate data  
23 and reinstate publication of annual reports, which were terminated in  
24 FY 2006, on the status of the harbor maintenance trust fund. This  
25 report should also include an analysis of the impact of the harbor  
26 maintenance tax in disincentivizing shippers from using US ports and  
27 diverting freight to foreign ports, thereby avoiding the tax.

28 BE IT RESOLVED, That copies of this Memorial be immediately  
29 transmitted to the Honorable Joseph R. Biden, Jr., President of the  
30 United States, the President of the United States Senate, the Speaker  
31 of the House of Representatives, and each member of Congress from the  
32 State of Washington.

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