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**SENATE BILL 5385**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Hobbs and Hunt

AN ACT Relating to creating a fossil fuel carbon pollution tax; amending RCW 47.66.070; reenacting and amending RCW 43.84.092; adding a new chapter to Title 82 RCW; and providing a contingent expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Coal" means bituminous coal, subbituminous coal, lignite, and coke.

(2) "First taxable event" means:

(a) The first possession of natural gas acquired by a gas distribution business;

(b) The first possession of natural gas acquired by a person subject to the tax under RCW 82.12.022 with respect to such natural gas;

(c) The first possession of coal acquired by a person using the coal for the generation of electricity, heat, or steam within the state of Washington;

(d) The first possession of a petroleum product subject to tax under chapter 82.21 RCW; and

(e) The use of fossil fuels by a facility in Washington that results in carbon dioxide emissions in conjunction with the process of distilling, fractionating, refining, or processing of crude oil or petroleum products.

(3) "Fossil fuel" means coal, natural gas, crude oil, and petroleum products.

(4) "Gas distribution business" has the same meaning as provided in RCW 82.16.010.

(5) "Petroleum product" has the same meaning as provided in RCW 82.21.020.

NEW SECTION. **Sec.**  (1) Except as provided in section 3 of this act, there is levied and imposed, at the time of the first taxable event and upon the first taxable person within this state, a fossil fuel carbon pollution tax upon the carbon content of fossil fuels extracted, manufactured, or introduced into this state equal to fifteen dollars per metric ton of carbon dioxide.

(2) The department must calculate the carbon content of fossil fuels, in consultation with the department of ecology, by using relevant methods based on those established by the United States department of energy or the United States environmental protection agency. The department must develop and make available worksheets and guidance documents necessary to calculate the carbon content of fossil fuels.

(3) No state agency may adopt or enforce a statewide program that sets a greenhouse gas emissions standard, limit, cap, or charge except as provided in chapter 82.--- RCW (the new chapter created in section 9 of this act). Any rule, policy, or standard previously adopted is repealed.

(4)(a) If the United States government adopts by statute or rule a charge, tax, regulatory limit, or standard upon the emission of greenhouse gases that is imposed broadly upon those persons subject to the state tax in this section, this section expires on the date that such federal statute or rule is adopted.

(b) The department must provide written notice of the expiration date of this section to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

NEW SECTION. **Sec.**  (1) The following fossil fuels are exempt from the fossil fuel carbon pollution tax imposed under this chapter:

(a) Fossil fuels used for air or marine travel between Washington and a jurisdiction outside the geographic borders of Washington;

(b) Fossil fuels purchased in Washington for export for use outside of Washington;

(c) Fossil fuels brought into this state by means of the fuel supply tank of a motor vehicle, vessel, locomotive, or aircraft; and

(d) Fossil fuels that the state is prohibiting from taxing under the Constitution of this state or the Constitution or laws of the United States.

(2) Any reductions to the fossil fuel carbon pollution tax rates due under this section may not be considered a credit and may not be transferred, traded, or banked.

NEW SECTION. **Sec.**  (1) The carbon pollution revenues account is created in the state treasury. All receipts from the tax imposed under section 2 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used for the following activities:

(a) Not less than fifteen percent must be expended for project-specific planning, design, and construction projects that reduce storm water impacts from existing infrastructure and development. Grants to cities and counties must be provided through the statewide storm water financial assistance program required by the capital budget in section 3081, chapter 19, Laws of 2013 2nd sp. sess. (Engrossed Substitute Senate Bill No. 5035). Grants may also be provided for projects that reduce storm water impacts from existing infrastructure and development, where there is a substantial water quality benefit and the project is not required by court order or required as a condition of a local or state permit;

(b) Not less than fifteen percent must be expended by the department of transportation for fish barrier correction projects at state highways required by the injunction entered in *United States v. Washington (Civ. No. CV9213RSM)*. Where the department determines that the amounts appropriated exceed the current biennial appropriation necessary to meet the overall timeline for compliance with the injunction, the department may provide funding for fish barrier correction projects on state or local roadways, with the highest priority for funding to be accorded to projects with the greatest restoration of fish habitat access. In making awards for projects not subject to the injunction the department must obtain the recommendations of the fish passage barrier removal board created in RCW 77.95.160;

(c) Not less than fifteen percent must be expended by the department of commerce for programs that advance renewable energy and energy efficiency. Appropriations to the department for this purpose may include:

(i) Funding projects that provide a benefit to the public through development, demonstration, and deployment of clean energy technologies that save energy and reduce energy costs, reduce harmful air emissions, or otherwise increase energy independence for the state. In funding such projects, the department must be guided by the project selection procedures and standards required by the capital budget in section 1028, chapter 3, Laws of 2015 3rd sp. sess. (Second Engrossed House Bill No. 1115).

(ii) Funding community energy efficiency programs that provide assistance for energy efficiency assessments and retrofits, with an emphasis upon residential housing serving moderate and low-income families.

(iii) Funding to offset some or all of the state fiscal impacts of the credits against state taxes owing by retail electric utilities for the renewable energy incentive payments made to customers installing solar or other renewable energy facilities at their premises, pursuant to RCW 82.16.130. On April 1st of each year the state treasurer must transfer from the carbon pollution revenues account to the general fund the amount determined by the department of revenue to be the total in public utility tax credits under RCW 82.16.130, or such lesser amount as specifically appropriated for this purpose;

(d) Not less than fifty percent must be transferred to the multimodal account to be expended from that account for the purposes provided in RCW 47.66.070(2); and

(e) Not less than five percent may be expended for highway maintenance and preservation activities at the state department of transportation.

NEW SECTION. **Sec.**  (1) The fossil fuel carbon pollution tax imposed under this chapter is to be collected in addition to all other taxes imposed on fossil fuels.

(2) To the extent practical, the department must integrate the administration and collection of the fossil fuel carbon pollution taxes imposed under this chapter with the administration and collection of other taxes imposed on the taxpayer. The administrative provisions of chapter 82.32 RCW apply to this chapter.

**Sec.**  RCW 47.66.070 and 2000 2nd sp.s. c 4 s 2 are each amended to read as follows:

(1) The multimodal transportation account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for transportation purposes.

(2) Not less than fifty percent of the funds transferred to the account pursuant to section 4 of this act may be expended to assist school district programs under chapter 28A.160 RCW.

**Sec.**  RCW 43.84.092 and 2016 c 194 s 5, 2016 c 161 s 20, and 2016 c 112 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the carbon pollution revenues account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, ((~~the drinking water assistance administrative account, the drinking water assistance repayment account,~~)) the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 82 RCW.

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