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SENATE BILL 5385

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State of Washington

65th Legislature

2017 Regular Session

By Senators Hobbs and Hunt

Read first time 01/23/17. Referred to Committee on Energy,  
Environment & Telecommunications.

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

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires  
8 otherwise.

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

11 (2) "First taxable event" means:

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

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

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

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

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

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

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

9 (5) "Petroleum product" has the same meaning as provided in RCW  
10 82.21.020.

11 NEW SECTION. **Sec. 2.** (1) Except as provided in section 3 of  
12 this act, there is levied and imposed, at the time of the first  
13 taxable event and upon the first taxable person within this state, a  
14 fossil fuel carbon pollution tax upon the carbon content of fossil  
15 fuels extracted, manufactured, or introduced into this state equal to  
16 fifteen dollars per metric ton of carbon dioxide.

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

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

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

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

1        NEW SECTION.    **Sec. 3.**    (1) The following fossil fuels are exempt  
2 from the fossil fuel carbon pollution tax imposed under this chapter:

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

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

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

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

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

15        NEW SECTION.    **Sec. 4.**    (1) The carbon pollution revenues account  
16 is created in the state treasury. All receipts from the tax imposed  
17 under section 2 of this act must be deposited in the account. Moneys  
18 in the account may be spent only after appropriation.

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

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

32        (b) Not less than fifteen percent must be expended by the  
33 department of transportation for fish barrier correction projects at  
34 state highways required by the injunction entered in *United States v.*  
35 *Washington* (Civ. No. CV9213RSM). Where the department determines that  
36 the amounts appropriated exceed the current biennial appropriation  
37 necessary to meet the overall timeline for compliance with the  
38 injunction, the department may provide funding for fish barrier  
39 correction projects on state or local roadways, with the highest

1 priority for funding to be accorded to projects with the greatest  
2 restoration of fish habitat access. In making awards for projects not  
3 subject to the injunction the department must obtain the  
4 recommendations of the fish passage barrier removal board created in  
5 RCW 77.95.160;

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

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

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

22 (iii) Funding to offset some or all of the state fiscal impacts  
23 of the credits against state taxes owing by retail electric utilities  
24 for the renewable energy incentive payments made to customers  
25 installing solar or other renewable energy facilities at their  
26 premises, pursuant to RCW 82.16.130. On April 1st of each year the  
27 state treasurer must transfer from the carbon pollution revenues  
28 account to the general fund the amount determined by the department  
29 of revenue to be the total in public utility tax credits under RCW  
30 82.16.130, or such lesser amount as specifically appropriated for  
31 this purpose;

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

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

1        NEW SECTION.    **Sec. 5.**    (1) The fossil fuel carbon pollution tax  
2 imposed under this chapter is to be collected in addition to all  
3 other taxes imposed on fossil fuels.

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

9        **Sec. 6.**    RCW 47.66.070 and 2000 2nd sp.s. c 4 s 2 are each  
10 amended to read as follows:

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

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

18        **Sec. 7.**    RCW 43.84.092 and 2016 c 194 s 5, 2016 c 161 s 20, and  
19 2016 c 112 s 4 are each reenacted and amended to read as follows:

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

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

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

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

14 (a) The following accounts and funds shall receive their  
15 proportionate share of earnings based upon each account's and fund's  
16 average daily balance for the period: The aeronautics account, the  
17 aircraft search and rescue account, the Alaskan Way viaduct  
18 replacement project account, the brownfield redevelopment trust fund  
19 account, the budget stabilization account, the capital vessel  
20 replacement account, the capitol building construction account, the  
21 carbon pollution revenues account, the Cedar River channel  
22 construction and operation account, the Central Washington University  
23 capital projects account, the charitable, educational, penal and  
24 reformatory institutions account, the Chehalis basin account, the  
25 cleanup settlement account, the Columbia river basin water supply  
26 development account, the Columbia river basin taxable bond water  
27 supply development account, the Columbia river basin water supply  
28 revenue recovery account, the common school construction fund, the  
29 community forest trust account, the connecting Washington account,  
30 the county arterial preservation account, the county criminal justice  
31 assistance account, the deferred compensation administrative account,  
32 the deferred compensation principal account, the department of  
33 licensing services account, the department of retirement systems  
34 expense account, the developmental disabilities community trust  
35 account, the diesel idle reduction account, the drinking water  
36 assistance account, (~~the drinking water assistance administrative~~  
37 ~~account, the drinking water assistance repayment account,~~) the  
38 Eastern Washington University capital projects account, the  
39 Interstate 405 express toll lanes operations account, the education  
40 construction fund, the education legacy trust account, the election

1 account, the electric vehicle charging infrastructure account, the  
2 energy freedom account, the energy recovery act account, the  
3 essential rail assistance account, The Evergreen State College  
4 capital projects account, the federal forest revolving account, the  
5 ferry bond retirement fund, the freight mobility investment account,  
6 the freight mobility multimodal account, the grade crossing  
7 protective fund, the public health services account, the high  
8 capacity transportation account, the state higher education  
9 construction account, the higher education construction account, the  
10 highway bond retirement fund, the highway infrastructure account, the  
11 highway safety fund, the high occupancy toll lanes operations  
12 account, the hospital safety net assessment fund, the industrial  
13 insurance premium refund account, the judges' retirement account, the  
14 judicial retirement administrative account, the judicial retirement  
15 principal account, the local leasehold excise tax account, the local  
16 real estate excise tax account, the local sales and use tax account,  
17 the marine resources stewardship trust account, the medical aid  
18 account, the mobile home park relocation fund, the money-purchase  
19 retirement savings administrative account, the money-purchase  
20 retirement savings principal account, the motor vehicle fund, the  
21 motorcycle safety education account, the multimodal transportation  
22 account, the multiuse roadway safety account, the municipal criminal  
23 justice assistance account, the natural resources deposit account,  
24 the oyster reserve land account, the pension funding stabilization  
25 account, the perpetual surveillance and maintenance account, the  
26 pollution liability insurance agency underground storage tank  
27 revolving account, the public employees' retirement system plan 1  
28 account, the public employees' retirement system combined plan 2 and  
29 plan 3 account, the public facilities construction loan revolving  
30 account beginning July 1, 2004, the public health supplemental  
31 account, the public works assistance account, the Puget Sound capital  
32 construction account, the Puget Sound ferry operations account, the  
33 Puget Sound taxpayer accountability account, the real estate  
34 appraiser commission account, the recreational vehicle account, the  
35 regional mobility grant program account, the resource management cost  
36 account, the rural arterial trust account, the rural mobility grant  
37 program account, the rural Washington loan fund, the site closure  
38 account, the skilled nursing facility safety net trust fund, the  
39 small city pavement and sidewalk account, the special category C  
40 account, the special wildlife account, the state employees' insurance

1 account, the state employees' insurance reserve account, the state  
2 investment board expense account, the state investment board  
3 commingled trust fund accounts, the state patrol highway account, the  
4 state route number 520 civil penalties account, the state route  
5 number 520 corridor account, the state wildlife account, the  
6 supplemental pension account, the Tacoma Narrows toll bridge account,  
7 the teachers' retirement system plan 1 account, the teachers'  
8 retirement system combined plan 2 and plan 3 account, the tobacco  
9 prevention and control account, the tobacco settlement account, the  
10 toll facility bond retirement account, the transportation 2003  
11 account (nickel account), the transportation equipment fund, the  
12 transportation fund, the transportation future funding program  
13 account, the transportation improvement account, the transportation  
14 improvement board bond retirement account, the transportation  
15 infrastructure account, the transportation partnership account, the  
16 traumatic brain injury account, the tuition recovery trust fund, the  
17 University of Washington bond retirement fund, the University of  
18 Washington building account, the volunteer firefighters' and reserve  
19 officers' relief and pension principal fund, the volunteer  
20 firefighters' and reserve officers' administrative fund, the  
21 Washington judicial retirement system account, the Washington law  
22 enforcement officers' and firefighters' system plan 1 retirement  
23 account, the Washington law enforcement officers' and firefighters'  
24 system plan 2 retirement account, the Washington public safety  
25 employees' plan 2 retirement account, the Washington school  
26 employees' retirement system combined plan 2 and 3 account, the  
27 Washington state health insurance pool account, the Washington state  
28 patrol retirement account, the Washington State University building  
29 account, the Washington State University bond retirement fund, the  
30 water pollution control revolving administration account, the water  
31 pollution control revolving fund, the Western Washington University  
32 capital projects account, the Yakima integrated plan implementation  
33 account, the Yakima integrated plan implementation revenue recovery  
34 account, and the Yakima integrated plan implementation taxable bond  
35 account. Earnings derived from investing balances of the agricultural  
36 permanent fund, the normal school permanent fund, the permanent  
37 common school fund, the scientific permanent fund, the state  
38 university permanent fund, and the state reclamation revolving  
39 account shall be allocated to their respective beneficiary accounts.



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

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

10 NEW SECTION. **Sec. 8.** If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 9.** Sections 1 through 5 of this act  
15 constitute a new chapter in Title 82 RCW.

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