

# SENATE BILL REPORT

## SB 5971

As of March 1, 2019

**Title:** An act relating to transportation funding.

**Brief Description:** Concerning transportation funding.

**Sponsors:** Senators Hobbs, Saldaña, Sheldon, Cleveland, Randall, Palumbo, Takko, Nguyen, Mullet, Liias, Lovelett and Conway.

**Brief History:**

**Committee Activity:** Transportation: 2/28/19.

### Brief Summary of Bill

- Imposes a carbon pollution fee, a special transportation benefit assessment, and increases the state gas tax by \$0.06.
- Raises the vehicle gross weight and other fees, the electric vehicle fee, and other vehicle and driver related charges.
- Implements a sales and use tax on automobile parts and bicycles.
- Increases the rental car tax, the capital vessel surcharge, and other fees.
- Modifies fund distribution provisions related to the low carbon fuel standard.

### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Bryon Moore (786-7726)

**Background:** Fuel Mix Disclosure Program. Each retail electric utility in the state must disclose its actual or imputed annual fuel mix used to generate electricity. The disclosure must provide the percentage attributable to each of the following generation sources:

- coal;
- hydroelectric;
- natural gas;
- nuclear; or
- other.

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Utilities may separately report a subcategory of natural gas generation to identify high efficiency cogeneration. Under the Fuel Mix Disclosure Program, any specifically identified source of electricity, such as wind or natural gas, is called a declared resource. Utilities that do not declare their resources must report the fuel mix of the Northwest power pool, called the net system power mix.

Transportation Impact Fees. The 1990 Growth Management Act (GMA) authorized local governments to impose impact fees, including transportation impact fees. Under the GMA provisions, the impact fees are limited to a proportionate share of the costs and may only be imposed for those system improvements reasonably related to the new development and that will benefit the new development. Under current law, transportation impact fees are not explicitly authorized at the state level.

The 18th Amendment and Fuel Taxes. Since 1921, the state of Washington has levied a motor vehicle fuel tax (MVFT). The current state MVFT is \$0.494 per gallon and is distributed amongst state highway programs, the state ferry system, and local governments. The state highway programs include revenue packages, such as the 2003 Transportation Nickel package, the 2005 Transportation Partnership, and the Connecting Washington package that the Legislature passed in 2015.

The 18th Amendment to the Washington Constitution requires that the state's MVFT, vehicle licensing fees, and all other state revenue intended to be used for highway purposes be deposited into the Motor Vehicle Fund. Monies in that fund may only be spent for highway purposes, which are defined to include expenditures on construction, preservation, maintenance, operation, and administration of highways and ferries.

Vehicle Registration and Weight Fees. Motor vehicles used on public highways must generally be registered annually with the Department of Licensing. Most vehicles, such as passenger cars, motorcycles, sports utility vehicles, tow trucks, for-hire vehicles, certain trailers, and taxicabs, are subject to: (1) a \$30 annual registration fee; (2) an annual weight fee of \$25 to \$72 based on the scale weight of the vehicle; and (3) other fees totaling \$8.75. There are also fees and charges based on where the vehicle is registered geographically and whether the vehicle qualifies for a fee based on vehicle type—such as electric vehicles and motor homes.

The majority of the proceeds from vehicle weight fees are deposited in the Multimodal Transportation Account. Funds in the account are used for transportation purposes, which is broader than highway purposes and can include public transportation and rail.

Beginning July 1, 2022, an additional \$10 per year weight fee is added and the increased revenues will be deposited into the Multimodal Transportation Fund, unless prior to July 1, 2023, a clean fuel standard policy is initiated or adopted, in which case the weight fee is deposited into the Connecting Washington Account.

License Fee by Weight for Light Duty Trucks. In lieu of the vehicle license fee and weight fees, trucks, including light duty trucks, are subject to a license fee based on gross vehicle

weight. For light duty trucks, which are those trucks under 10,000 pounds, the current annual license fees by weight range from \$53 to \$93.

Beginning July 1, 2022, an additional \$10 per year fee is added on vehicles with a gross vehicle weight of less than or equal to 12,000, which is distributed to various accounts within the Motor Vehicle Fund, consistent with the distributing of other license fees by weight.

Freight Project Fees. A freight project fee of 15 percent of the license fee by weight applies to vehicles that have a gross vehicle weight of more than 10,000 pounds. Proceeds from the fee are deposited in the Connecting Washington Account.

International Fuel Tax Agreement Decals. Motor carriers that operate in more than one state must have an International Fuel Tax Agreement (IFTA) decal. The current annual fee is \$10 per year for IFTA decal. The revenues are deposited into the Motor Vehicle Fund.

Trip Permit Fees. A vehicle trip permit issued by the state allows a vehicle owner to operate an unregistered vehicle on public highways for up to three days. The trip permit is usually used for unregistered vehicles, license tabs that have expired, or when a current gross weight license is insufficient for the load being carried. No more than three trip permits may be used for any one vehicle in any consecutive 30-day period, and no more than two trip permits may be used for any one recreational vehicle in a one-year period. The cost of each trip permit is \$25 and the funds are deposited into the State Patrol Highway Account, the state General Fund, and the Motor Vehicle Fund.

Motor Home Vehicle Weight Fee. A motor home is a motor vehicle originally designed, reconstructed, or permanently altered to provide facilities for human habitation. A person applying for a motor home vehicle registration must, in lieu of the motor vehicle weight fee, pay a motor home vehicle weight fee of \$75 per year in addition to all other fees and taxes required by law. The motor home vehicle weight fee is deposited into the Freight Mobility Multimodal Account and Multimodal Transportation Account.

For-Hire Vehicles and Transportation Network Companies. Certain private transportation providers, such as for hire vehicles and taxicabs, are regulated by state law. Generally, cities, counties, and port districts may license, control, and regulate for-hire vehicles within their respective jurisdictions, including imposing regulatory fees. However, current law does not specifically provide for the regulation of what are commonly known as ridesharing companies, which are companies that use a digital network to connect passengers to drivers for the purpose of providing a prearranged ride, often by use of the driver's personal vehicle. These are sometimes referred to as Transportation Network Companies (TNCs). To the extent that regulatory and other fees are imposed on for-hire vehicles, taxicabs, and TNCs, this is generally done by local governments.

Sales and Use Taxes. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. 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. State sales and use tax revenues are deposited into the state general fund.

Enhanced Driver's Licenses and Indentcards. An enhanced driver license (EDL) or enhanced ID card (EID) may be issued to a Washington resident that is also a United States citizen if they have confirmed their identity and citizenship. A person applying for an EDL must be at least 18 years old and any age for an enhanced ID card.

The fee for an EDL or EID is \$24 in addition to any other fees due for a driver's license or ID card. The EDL and EID revenues are deposited into the Highway Safety Fund unless prior to July 1, 2023, a clean fuel standard policy is initiated or adopted, in which case the EDL and EID fees are deposited into the Connecting Washington Account.

Electric Vehicle Fee. In addition to any other fees due at annual vehicle registration renewal, vehicles powered by electricity are subject to two electric vehicle fees that total \$150. The first fee is \$100 and is deposited into the Motor Vehicle Fund up to \$1 million annually. If in any year the amount collected exceeds \$1 million, the excess amount is distributed as follows: (1) 70 percent to the Motor Vehicle Fund; (2) 15 percent to the Transportation Improvement Account; and (3) 15 percent to the Rural Arterial Trust Account. The second fee is \$50 and is distributed as follows: (1) the first \$1 million raised by the fee must be deposited into the Multimodal Transportation Account; and (2) any remaining amounts must be deposited into the Motor Vehicle Fund. The \$1 million threshold was reached in November 2017, and fee revenues from the \$50 fee are currently deposited into the Motor Vehicle Fund.

Rental Car Tax. Rental cars are subject to an additional 5.9 percent state sales and use tax that is imposed on each rental car contract. Rental cars are also subject to some locally imposed taxes. Proceeds from the state rental car tax are deposited into the Multimodal Transportation Account.

Capital Vessel Surcharge. In 2011, the Transportation Commission was directed to impose a \$0.25 surcharge on every ferry fare sold and the proceeds were directed to the Capital Vessel Replacement Account.

Low Carbon Fuel Standard and the 2015 "Connecting Washington" Revenue Package. In 2015, the Legislature enacted legislation that raised revenue for transportation purposes. The sources of revenue included increasing fees on:

- enhanced driver's licenses and indentcards;
- commercial driver's licenses and permits; and
- vehicle weight charges that apply to passenger vehicles and motor homes.

The driver related fees are deposited into the Highway Safety Fund and the vehicle weight fees are deposited into a combination of the Multimodal Transportation Account and the Freight Mobility Multimodal Account.

However, if a clean fuel standard policy is initiated or adopted prior to July 1, 2023, the additional revenue raised from the driver's license and vehicle weight fee increases would be redirected from the Highway Safety Fund, Multimodal Transportation Account, and Freight Mobility Multimodal Account, and would instead be deposited into the Connecting Washington Account.

High Occupancy Vehicle Lane Violations. Current law allows the Washington State Department of Transportation (DOT) and local authorities to reserve portions of any highways under their jurisdiction as limited access facilities, or high occupancy vehicle (HOV) lanes. DOT has various types of HOV lanes on Interstate 5, Interstate 90, Interstate 405, State Route 16, State Route 167 and State Route 520. Standard HOV lanes are generally the inside, left lanes and are identified by signs along the highway and diamond symbols painted on the pavement.

The HOV lane passenger requirement is either two or more, or three or more persons per vehicle, depending on the highway and time of day, or both. The penalty for violating the passenger requirement is a traffic infraction with a total fine of \$136.

**Summary of Bill:** Carbon Pollution Fee. Beginning July 1, 2020, a \$15 per metric ton (MT) carbon pollution fee applies to: (1) the sale or use of fossil fuels within the state of Washington; and (2) the generation within or import for consumption to this state of electricity generated through the combustion of fossil fuels. All receipts from the carbon pollution fee must be deposited into the Forward Washington Account.

With several notable exceptions, the carbon pollution fee is imposed on the first sale or use of fossil fuel in Washington. A sale of fossil fuel takes place in the state when the fossil fuel is delivered in this state to the purchaser or a person designated by the purchaser. A use of fossil fuel occurs in this state when the fuel is consumed by the fee-payer in the state or the fee-payer possesses or stores the fossil fuel in the state in preparation for actual consumption by the fee-payer.

For motor vehicle or special fuels, the carbon pollution fee would generally parallel the points of taxation used for fuel taxes where tax is imposed when fuel is removed from the terminal rack.

For sales of natural gas by a gas distribution business to a retail customer in the state, except sales to a light and power business, the carbon pollution fee is imposed on the gas distribution business when it sells natural gas to the retail customer. For natural gas sold to a light and power business, the carbon pollution fee is imposed on the light and power business as part of the light and power business's sale of the electricity as described below. For natural gas sold to a direct access gas customer in the state, the carbon pollution fee is imposed on the direct access gas customer upon the consumption of the natural gas.

For electricity produced in the state using fossil fuels, the carbon pollution fee is imposed on the business that owns or operates the electrical generation facility producing the electricity. For electricity produced outside the state and ultimately consumed in the state, the carbon pollution fee is imposed on the first person who imports or delivers the electricity into the state and is required to be registered with the Department of Revenue for purposes of paying state business taxes.

Carbon Pollution Fee Exemptions. The carbon pollution fee does not apply to:

- fossil fuels brought into this state by means of the primary fuel supply tank of a motor vehicle, vessel, locomotive, or aircraft;

- fossil fuels or electricity exported from the state of Washington - Indian country is not considered export outside this state;
- the sale or use of coal transition power;
- fuel used solely for agricultural purposes;
- aircraft fuel;
- fossil fuels and electricity used to manufacture timber products;
- activities or property of Indian tribes and individual Indians that are exempt from state taxation as a matter of federal law or state law, whether by statute, rule, or compact;
- eligible renewable resources;
- biogas, biodiesel, cellulosic ethanol, and renewable diesel;
- electricity or fossil fuels subject to a comparable carbon tax or charge on carbon content imposed by another jurisdiction, including allowances required to be purchased by another out-of-state jurisdiction;
- electricity or fossil fuels subject to a comparable federal carbon tax or charge above the tax rate in Washington State;
- the portion of fossil fuels purchased in the state and combusted outside the state by interstate motor carriers and vessels used primarily in interstate or foreign commerce; and

An exemption is also provided for fossil fuels used on-site for manufacturing processes by an energy-intensive trade-exposed (EITE) facility. Examples of facilities identified as EITE-type facilities under an existing similar designation would be pulp mills as well as aircraft, aluminum, and cement manufacturing facilities. To implement the exemption, the Department of Commerce will establish objective numerical criteria for both energy intensity and trade exposure. The criteria must take into account consideration approaches used by other jurisdictions with existing carbon reduction or carbon pricing programs. A facility primarily engaging in copper, nickel, and zinc mining is automatically designated as an EITE facility.

To qualify for an EITE exemption, the business must apply to the Department of Revenue for each facility. A business that receives an EITE exemption in error must repay exempted amounts plus interest.

An entity paying an administrative penalty for not meeting carbon neutral standards, or commonly referred to as 100 percent renewable resource requirements, of SB 5116—Washington's clean energy economy—may deduct the amount of the carbon pollution fee paid from amount of the administrative penalty.

Carbon Pollution Fee State Preemption. No local government in the state may impose any comparable carbon fee, charge, or cap on the sale or use of fossil fuels or the retail sale or consumption of electricity generated through the combustion of fossil fuels. No local government in Washington may levy any tax on the amounts received by a person with respect to a carbon fee liability. This restriction is not imposed on federally recognized Indian tribes.

Statewide Special Transportation Benefit Assessment. An additional assessment is imposed on new construction for developed parcels for the purposes of mitigating the impacts of

growth on state transportation infrastructure throughout the state. The benefit assessment is determined by applying any increase in assessed value over the prior year derived from new construction to the applicable rate:

- for residential developed parcels, the rate is \$2 per \$1,000 of assessed value resulting from new construction which translates into 0.2 percent;
- for manufacturing developed parcels, the rate is \$1 per \$1,000 of assessed value resulting from new construction which translates into 0.1 percent; and
- for all other developed parcels, including most commercial property, the rate is \$4 per \$1,000 of assessed value resulting from new construction which translates into 0.4 percent.

Parcels that are classified as designated forestland, agriculture land or timberland are exempt from the special transportation benefit assessment. All revenues collected from the special transportation benefit assessment will be deposited into the Forward Flexible Account.

Fuel Taxes. Beginning July 1, 2019, the motor vehicle fuel tax is increased by \$0.06 per gallon. Revenue from the \$0.06 per gallon is deposited into the Forward Washington Account.

Vehicle Registration Fees. Beginning July 1, 2019, the \$30 annual registration fee on most vehicles, such as passenger cars, motorcycles, sports utility vehicles, tow trucks, for-hire vehicles, certain trailers, and taxicabs is increased from \$30 to \$35. The revenue generated from the \$5 increase in the annual vehicle registration fee will be deposited into the Forward Washington Account.

Vehicle Weight Fees. The additional \$10 per year weight fee increase on most vehicles, such as passenger cars, motorcycles, sports utility vehicles, tow trucks, for-hire vehicles, certain trailers, and taxicabs scheduled to go into effect July 1, 2022 is moved up to July 1, 2019. Beginning July 1, 2019, an additional \$10 per year weight fee is added. This means that the effective increase on July 1, 2019 will be \$20 in each of the weight categories.

Scale Weight	Current Fee	FY 2023 Fee Increase Imposed in FY 2020	New Fee Imposed in FY 2020	Total Proposed Fee
4,000	\$25	\$10	\$10	\$45
6,000	\$45	\$10	\$10	\$65
8,000	\$65	\$10	\$10	\$85
10,000	\$65	\$10	\$10	\$85
12,000	\$65	\$10	\$10	\$85
14,000	\$65	\$10	\$10	\$85
>16,000	\$72	\$10	\$10	\$92

The revenues from the weight fee increases will be deposited into the Forward Flexible Account and the Multimodal Transportation Fund, unless a state or local agency initiates,

adopts or implements a clean fuel standard policy, in which case the weight fee is deposited into the Forward Washington Account.

License Fee by Weight for Light Duty Trucks. The additional \$10 per year weight fee increase on light duty trucks scheduled to go into effect July 1, 2022 is moved up to July 1, 2019. Beginning July 1, 2019, an additional \$10 per year weight fee is added. This means that the effective increase on July 1, 2019 will be \$20 in each of the weight categories.

Scale Weight	Current Fee	FY 2023 Fee Increase Imposed in FY 2020	New Fee Imposed in FY 2020	Total Proposed Fee
4,000	\$53	\$10	\$10	\$73
6,000	\$73	\$10	\$10	\$93
8,000	\$93	\$10	\$10	\$113
10,000	\$93	\$10	\$10	\$113

The revenues from the weight fee increases will be deposited into the Forward Washington Account.

Freight Project Fees. Beginning July 1, 2019, an additional freight project fee is imposed based on a percentage of the license fee by weight for vehicles that have a gross vehicle weight of more than 10,000 pounds. The freight project fee would be increased each biennium as depicted below.

	2019-21	2021-23	2023-25	2025-27	2027-29 and thereafter
freight project fee percent (in addition to the current law percent of 15%)	10%	13%	16%	19%	22%

The revenues from the freight project fees will be deposited into the Forward Washington Account.

International Fuel Tax Agreement Decals. Beginning July 1, 2019, the current IFTA decal fee is increased from \$10 per year to \$32.50 per year, with the additional \$22.50 being deposited into the Forward Washington Account.

Trip Permit Fees. Beginning July 1, 2019, the three day trip permits fee is increased from \$25 to \$45 with the additional \$20 being deposited into the Forward Washington Account.



Motor Home Vehicle Weight Fee. Beginning July 1, 2019, the motor home vehicle weight fee is increased from \$75 to \$100 per year with the additional \$25 being deposited into the Forward Flexible Account.

For-Hire Vehicles and Transportation Network Company Fees. Beginning July 1, 2019, a new \$0.50 per trip fee on prearranged and non-prearranged rides by for-hire vehicles operating in the state is imposed at the state level. For-hire vehicles for purposes of this fee are defined as vehicles used for the transportation of passengers for compensation including, taxicab transportation services and a TNC driver providing prearranged trips through a digital network. Most other types of transportation providers are specifically exempted from this fee.

The Department of Licensing is directed to adopt rules for the:

- administration, enforcement, and collection of the per trip fee in the most efficient manner;
- imposition of audit requirements to ensure compliance;
- establishment of penalties on drivers and companies for noncompliance; and
- potential implementation of cooperative arrangements with cities, counties, or port districts for the collection and remittance of the per trip fee.

All per trip fee revenue will be deposited into the Forward Flexible Account.

Automobile Parts Sales and Use Tax. Beginning July 1, 2019, an additional one percent sales and use tax is imposed on automobile parts and accessories. All revenues collected from the additional one percent tax will be deposited into the Forward Flexible Account.

Enhanced Driver's Licenses and Indentcards. Beginning October 1, 2020, the fee for EDL and EID is increased from \$24 to \$54 for the 6-year license. The revenue from the \$30 increase will be deposited into the Forward Flexible Account, unless a state or local agency initiates, adopts or implements a clean fuel standard policy, in which case the EDL and EID revenues will be deposited into the Forward Washington Account.

Electric Vehicle Fee. Beginning July 1, 2019, the current combined additional fee on vehicles that are powered by electricity of \$150 is increased to \$350 with the additional \$200 being deposited into the Forward Washington Account.

Rental Car Tax. Beginning July 1, 2019, the rental car tax imposed on each rental car contract is increased from 5.9 percent to 6.9 percent, with the additional one percent increase being deposited into the Forward Flexible Account.

Capital Vessel Surcharge. Beginning July 1, 2019, the Transportation Commission is directed to impose an additional \$0.25 surcharge on every ferry fare sold and the proceeds will be deposited into the Forward Washington Account. This would be in addition to existing \$0.25 surcharge that is deposited into the Capital Vessel Replacement Account.

Bicycle Sales and Use Tax. Beginning July 1, 2019, an additional one percent sales and use tax is imposed on bicycles, including electric bicycles. All revenues collected from the additional one percent tax will be deposited into the Forward Flexible Account.

High Occupancy Vehicle Lane Violations. A person issued an infraction for violating the HOV passenger requirement must be assessed an additional monetary penalty as follows:

- \$175 for the first offense;
- \$250 for the second offense; and
- \$350 for the third and subsequent offenses.

The additional monetary penalty under this subsection must be deposited into the Forward Flexible Account.

Clean Fuel Policy Change. The provisions that redirected certain funds based on the initiation or implementation of a clean fuel standard policy are made permanent. Additionally, the provisions that require redirecting funds are expanded to include if a local government initiates or implements a clean fuel standard policy. This applies to both the initial revenue items from the 2015 Connecting Washington package and some of the revenue increases included in this legislation.

Forward Washington Account. The Forward Washington Account is created in the motor vehicle fund. The account is appropriated and can be used only for projects or improvements identified as Forward Washington projects or improvements in a transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

Forward Flexible Account. The Forward Flexible Account is created in the state treasury. The account is appropriated and can only be used only for transportation projects, programs, or activities identified as forward flexible projects, programs, or activities in a transportation appropriations act.

**Appropriation:** None.

**Fiscal Note:** Requested on February 23, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2019, except for section 107 which has a contingent effective date.

**Staff Summary of Public Testimony:** Please refer to the February 28, 2019 recording of the public hearing on the Senate AV Capture All website at <http://leg.wa.gov/Senate/Committees/Pages/avcaaudio.aspx>

**Persons Testifying:** PRO: Senator Steve Hobbs, Prime Sponsor; Ashley Probart, Transportation Improvement Board; Heather Kurtenbach, Iron Workers Local 86; Brian Enslow, City of Vancouver; Ron Arp, Identity Clark County; Matt Ransom, SWRTC; Russell Wiita, City of Sultan, Council Member; Sean Eagan, The Northwest Seaport Alliance; Mark Riker, Washington State Building and Construction Trades Council; Dawn Vyvyan, Sauk-Suiattle Tribe; Chris Herman, Washington Public Ports Association; Isaac Kastama, Low Carbon Prosperity Institute.

CON: Lisa Thatcher, Clark Public Utilities; Tim Boyd, Alliance of Western Energy Consumers; Chris McCabe, Northwest Pulp and Paper Association; Tim Eyman, \$30 Tabs Initiative; Craig Kenworthy, Puget Sound Clean Air Agency; Mike Ennis, Association of Washington Business; Sheri Call, Washington Trucking Associations; Steve Gano, Building Industry Association of Washington; Arthur West, citizen.

OTHER: Bryce Yadon, Transportation Choices Coalition; Leah Missik, Climate Solutions; Adam Maxwell, Audubon; Cliff Traisman, Washington Environmental Council, Washington Conservation Voters; Scott Hazlegrove, Washington State Auto Dealers Association; Jessica Spiegel, Western States Petroleum Association; Amber Carter, Portland Vancouver Junction Railroad; Clif Swiggett, Carbon Washington; Alex Alston, Washington Bikes, Safe Routes to School National Partnership; Vic Colman, Childhood Obesity Prevention Coalition; Brad Boswell, Nucor Steel; Michael Transue, Tacoma Pierce County Chamber.

**Persons Signed In To Testify But Not Testifying:** No one.