
SENATE BILL 5281

State of Washington

68th Legislature

2023 Regular Session

By Senators Saldaña, Keiser, and Nguyen

Read first time 01/11/23. Referred to Committee on Transportation.

1 AN ACT Relating to modifying the aircraft fuel excise tax;
2 amending RCW 82.42.020, 82.42.030, 82.42.090, 43.84.092, and
3 43.84.092; reenacting and amending RCW 82.42.010; adding a new
4 section to chapter 82.42 RCW; creating a new section; providing
5 effective dates; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that airports
8 can have significant impacts on the communities in which they are
9 located, including, the quality of life of its residents and
10 employees, infrastructure demands, and environmental and public
11 health burdens.

12 (2) The legislature further finds that the airports can
13 exacerbate historic environmental health disparities and poor air
14 quality in those communities and for the employees that work in them.

15 (3) The legislature further finds that the levying 5 cents of the
16 existing 18 cent aircraft fuel excise tax on commercial aircraft
17 operators can provide a funding source to further address these
18 environmental and other impacts.

19 (4) The legislature further finds that the federal aviation
20 administration has determined that this 5 cent portion of the

1 aircraft fuel tax qualifies for grandfathered status and therefore
2 does not need to meet the airport revenue use requirements.

3 (5) Therefore, the legislature intends to impose only a portion
4 of the aircraft fuel excise tax on commercial aircraft, while
5 creating a funding mechanism to mitigate the impacts of emissions and
6 pollutants, and to further environmental justice goals in airport
7 locations throughout the state.

8 **Sec. 2.** RCW 82.42.010 and 2013 c 225 s 301 are each reenacted
9 and amended to read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Air carrier" means any airline, air cargo carrier, air taxi,
13 air commuter, or air charter operator, that provides routine air
14 service to the general population for compensation or hire, and
15 operates at least (~~fifteen~~) 15 round trips per week between two or
16 more points and publishes flight schedules which specify the times,
17 days of the week, and points between which it operates. Where it is
18 doubtful that an operation is for "compensation or hire," the test
19 applied is whether the air service is merely incidental to the
20 person's other business or is, in itself, a major enterprise for
21 profit.

22 (2) "Aircraft" means every contrivance now known or hereafter
23 invented, used or designed for navigation of or flight in the air,
24 operated or propelled by the use of aircraft fuel.

25 (3) "Aircraft fuel" means gasoline and any other inflammable
26 liquid, by whatever name such liquid is known or sold, the chief use
27 of which is as fuel for the propulsion of aircraft, except gas or
28 liquid, the chief use of which as determined by the director, is for
29 purposes other than the propulsion of aircraft.

30 (4) "Commercial air operator" means:

31 (a) An air carrier or supplemental air carrier operating under a
32 certificate of public convenience and necessity under the provisions
33 of the federal aviation act of 1958, P.L. 85-726, as amended; or

34 (b) A local service commuter.

35 (5) "Dealer" means any person engaged in the retail sale of
36 aircraft fuel.

37 (~~(5)~~) (6) "Department" means the department of licensing.

38 (~~(6)~~) (7) "Director" means the director of licensing.

1 (~~(7)~~) (8) "Distributor" means any person engaged in the sale of
2 aircraft fuel to any dealer and includes any dealer from whom the tax
3 hereinafter imposed has not been collected.

4 (~~(8)~~) (9) "Local service commuter" means an air taxi operator
5 who operates at least five round-trips per week between two or more
6 points; publishes flight schedules which specify the times, days of
7 the week, and points between which it operates; and whose aircraft
8 has a maximum capacity of (~~(sixty)~~) 60 passengers or eighteen
9 thousand pounds of useful load.

10 (~~(9)~~) (10) "Person" means every natural person, firm,
11 partnership, association, or private or public corporation.

12 **Sec. 3.** RCW 82.42.020 and 2022 c 182 s 201 are each amended to
13 read as follows:

14 (~~(There)~~) (1) Except as provided in subsection (2) of this
15 section, there is levied upon every distributor of aircraft fuel, an
16 excise tax at the rate of 18 cents on each gallon of aircraft fuel
17 sold, delivered, or used in this state.

18 (2) There is levied upon every distributor of aircraft fuel, an
19 excise tax at the rate of 5 cents on each gallon of aircraft fuel
20 sold, delivered, or used in this state for use by a commercial air
21 operator.

22 (3) There must be collected from every user of aircraft fuel
23 either the use tax imposed by RCW 82.12.020 or the retail sales tax
24 imposed by RCW 82.08.020. The taxes imposed by this chapter must be
25 collected and paid to the state but once in respect to any aircraft
26 fuel.

27 **Sec. 4.** RCW 82.42.030 and 2013 c 225 s 303 are each amended to
28 read as follows:

29 The provision of RCW 82.42.020 imposing the payment of an excise
30 tax on each gallon of aircraft fuel sold, delivered or used in this
31 state does not apply to:

- 32 (1) Aircraft fuel sold for export and exported from this state;
33 (2) Aircraft fuel imported into the state in interstate or
34 foreign commerce and intended to be sold while in interstate or
35 foreign commerce;
36 (3) Aircraft fuel sold to an agency of the United States
37 government;

1 (4) (~~Aircraft fuel delivered directly into the aircraft fuel~~
2 ~~tanks of equipment operated by an air carrier or supplemental air~~
3 ~~carrier operating under a certificate of public convenience and~~
4 ~~necessity under the provisions of the federal aviation act of 1958,~~
5 ~~P.L. 85-726, as amended;~~

6 ~~(5) Aircraft fuel delivered directly into the aircraft fuel tanks~~
7 ~~of equipment operated by a local service commuter;~~

8 ~~(6))~~ Aircraft fuel sold to emergency medical air transport
9 entities;

10 ~~((7))~~ (5) Aircraft fuel sold to a licensed aircraft fuel
11 distributor;

12 ~~((8))~~ (6) Aircraft fuel delivered into the bulk storage tank of
13 a certified user;

14 ~~((9))~~ (7) Aircraft fuel used in the operation of aircraft for
15 testing or experimental purposes; and

16 ~~((10))~~ (8) Aircraft fuel used in the operation of aircraft when
17 such operation is for the training of crews in Washington state for
18 purchasers of aircraft who are certified air carriers.

19 **Sec. 5.** RCW 82.42.090 and 2017 3rd sp.s. c 25 s 42 are each
20 amended to read as follows:

21 (1) All moneys collected by the director from the aircraft fuel
22 excise tax as provided in RCW 82.42.020(1) shall be transmitted to
23 the state treasurer and shall be credited to the aeronautics account
24 hereby created in the state treasury.

25 (2) All moneys collected by the director from the aircraft fuel
26 excise tax as provided in RCW 82.42.020(2) shall be transmitted to
27 the state treasurer and shall be credited to the commercial aviation
28 mitigation account created in section 6 of this act.

29 (3) Moneys collected from the consumer or user of aircraft fuel
30 from either the use tax imposed by RCW 82.12.020 or the retail sales
31 tax imposed by RCW 82.08.020 shall be transmitted to the state
32 treasurer and credited to the state general fund.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.42
34 RCW to read as follows:

35 The commercial aviation mitigation account is created in the
36 state treasury. All receipts from aircraft fuel excise tax imposed
37 under RCW 82.42.020(2) must be deposited in the account. Moneys in
38 the account may be spent only after appropriation. Expenditures from

1 the account must be used only for addressing environmental and other
2 impacts associated with airports.

3 **Sec. 7.** RCW 43.84.092 and 2022 c 182 s 403 are each amended to
4 read as follows:

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

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

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

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

37 (a) The following accounts and funds shall receive their
38 proportionate share of earnings based upon each account's and fund's
39 average daily balance for the period: The abandoned recreational

1 vehicle disposal account, the aeronautics account, the Alaskan Way
2 viaduct replacement project account, the ambulance transport fund,
3 the brownfield redevelopment trust fund account, the budget
4 stabilization account, the capital vessel replacement account, the
5 capitol building construction account, the Central Washington
6 University capital projects account, the charitable, educational,
7 penal and reformatory institutions account, the Chehalis basin
8 account, the Chehalis basin taxable account, the cleanup settlement
9 account, the climate active transportation account, the climate
10 transit programs account, the Columbia river basin water supply
11 development account, the Columbia river basin taxable bond water
12 supply development account, the Columbia river basin water supply
13 revenue recovery account, the commercial aviation mitigation account,
14 the common school construction fund, the community forest trust
15 account, the connecting Washington account, the county arterial
16 preservation account, the county criminal justice assistance account,
17 the deferred compensation administrative account, the deferred
18 compensation principal account, the department of licensing services
19 account, the department of retirement systems expense account, the
20 developmental disabilities community services account, the diesel
21 idle reduction account, the drinking water assistance account, the
22 administrative subaccount of the drinking water assistance account,
23 the early learning facilities development account, the early learning
24 facilities revolving account, the Eastern Washington University
25 capital projects account, the education construction fund, the
26 education legacy trust account, the election account, the electric
27 vehicle account, the energy freedom account, the energy recovery act
28 account, the essential rail assistance account, The Evergreen State
29 College capital projects account, the fair start for kids account,
30 the ferry bond retirement fund, the fish, wildlife, and conservation
31 account, the freight mobility investment account, the freight
32 mobility multimodal account, the grade crossing protective fund, the
33 public health services account, the state higher education
34 construction account, the higher education construction account, the
35 higher education retirement plan supplemental benefit fund, the
36 highway bond retirement fund, the highway infrastructure account, the
37 highway safety fund, the hospital safety net assessment fund, the
38 Interstate 405 and state route number 167 express toll lanes account,
39 the judges' retirement account, the judicial retirement
40 administrative account, the judicial retirement principal account,

1 the limited fish and wildlife account, the local leasehold excise tax
2 account, the local real estate excise tax account, the local sales
3 and use tax account, the marine resources stewardship trust account,
4 the medical aid account, the money-purchase retirement savings
5 administrative account, the money-purchase retirement savings
6 principal account, the motor vehicle fund, the motorcycle safety
7 education account, the move ahead WA account, the move ahead WA
8 flexible account, the multimodal transportation account, the multiuse
9 roadway safety account, the municipal criminal justice assistance
10 account, the oyster reserve land account, the pension funding
11 stabilization account, the perpetual surveillance and maintenance
12 account, the pilotage account, the pollution liability insurance
13 agency underground storage tank revolving account, the public
14 employees' retirement system plan 1 account, the public employees'
15 retirement system combined plan 2 and plan 3 account, the public
16 facilities construction loan revolving account, the public health
17 supplemental account, the public works assistance account, the Puget
18 Sound capital construction account, the Puget Sound ferry operations
19 account, the Puget Sound Gateway facility account, the Puget Sound
20 taxpayer accountability account, the real estate appraiser commission
21 account, the recreational vehicle account, the regional mobility
22 grant program account, the resource management cost account, the
23 rural arterial trust account, the rural mobility grant program
24 account, the rural Washington loan fund, the sexual assault
25 prevention and response account, the site closure account, the
26 skilled nursing facility safety net trust fund, the small city
27 pavement and sidewalk account, the special category C account, the
28 special wildlife account, the state investment board expense account,
29 the state investment board commingled trust fund accounts, the state
30 patrol highway account, the state reclamation revolving account, the
31 state route number 520 civil penalties account, the state route
32 number 520 corridor account, the statewide broadband account, the
33 statewide tourism marketing account, the supplemental pension
34 account, the Tacoma Narrows toll bridge account, the teachers'
35 retirement system plan 1 account, the teachers' retirement system
36 combined plan 2 and plan 3 account, the tobacco prevention and
37 control account, the tobacco settlement account, the toll facility
38 bond retirement account, the transportation 2003 account (nickel
39 account), the transportation equipment fund, the transportation
40 future funding program account, the transportation improvement

1 account, the transportation improvement board bond retirement
2 account, the transportation infrastructure account, the
3 transportation partnership account, the traumatic brain injury
4 account, the University of Washington bond retirement fund, the
5 University of Washington building account, the voluntary cleanup
6 account, the volunteer firefighters' and reserve officers' relief and
7 pension principal fund, the volunteer firefighters' and reserve
8 officers' administrative fund, the vulnerable roadway user education
9 account, the Washington judicial retirement system account, the
10 Washington law enforcement officers' and firefighters' system plan 1
11 retirement account, the Washington law enforcement officers' and
12 firefighters' system plan 2 retirement account, the Washington public
13 safety employees' plan 2 retirement account, the Washington school
14 employees' retirement system combined plan 2 and 3 account, the
15 Washington state patrol retirement account, the Washington State
16 University building account, the Washington State University bond
17 retirement fund, the water pollution control revolving administration
18 account, the water pollution control revolving fund, the Western
19 Washington University capital projects account, the Yakima integrated
20 plan implementation account, the Yakima integrated plan
21 implementation revenue recovery account, and the Yakima integrated
22 plan implementation taxable bond account. Earnings derived from
23 investing balances of the agricultural permanent fund, the normal
24 school permanent fund, the permanent common school fund, the
25 scientific permanent fund, and the state university permanent fund
26 shall be allocated to their respective beneficiary accounts.

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

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

36 **Sec. 8.** RCW 43.84.092 and 2022 c 182 s 404 are each amended to
37 read as follows:

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

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

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

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

33 (a) The following accounts and funds shall receive their
34 proportionate share of earnings based upon each account's and fund's
35 average daily balance for the period: The abandoned recreational
36 vehicle disposal account, the aeronautics account, the Alaskan Way
37 viaduct replacement project account, the brownfield redevelopment
38 trust fund account, the budget stabilization account, the capital
39 vessel replacement account, the capitol building construction
40 account, the Central Washington University capital projects account,

1 the charitable, educational, penal and reformatory institutions
2 account, the Chehalis basin account, the Chehalis basin taxable
3 account, the cleanup settlement account, the climate active
4 transportation account, the climate transit programs account, the
5 Columbia river basin water supply development account, the Columbia
6 river basin taxable bond water supply development account, the
7 Columbia river basin water supply revenue recovery account, the
8 commercial aviation mitigation account, the common school
9 construction fund, the community forest trust account, the connecting
10 Washington account, the county arterial preservation account, the
11 county criminal justice assistance account, the deferred compensation
12 administrative account, the deferred compensation principal account,
13 the department of licensing services account, the department of
14 retirement systems expense account, the developmental disabilities
15 community services account, the diesel idle reduction account, the
16 drinking water assistance account, the administrative subaccount of
17 the drinking water assistance account, the early learning facilities
18 development account, the early learning facilities revolving account,
19 the Eastern Washington University capital projects account, the
20 education construction fund, the education legacy trust account, the
21 election account, the electric vehicle account, the energy freedom
22 account, the energy recovery act account, the essential rail
23 assistance account, The Evergreen State College capital projects
24 account, the fair start for kids account, the ferry bond retirement
25 fund, the fish, wildlife, and conservation account, the freight
26 mobility investment account, the freight mobility multimodal account,
27 the grade crossing protective fund, the public health services
28 account, the state higher education construction account, the higher
29 education construction account, the higher education retirement plan
30 supplemental benefit fund, the highway bond retirement fund, the
31 highway infrastructure account, the highway safety fund, the hospital
32 safety net assessment fund, the Interstate 405 and state route number
33 167 express toll lanes account, the judges' retirement account, the
34 judicial retirement administrative account, the judicial retirement
35 principal account, the limited fish and wildlife account, the local
36 leasehold excise tax account, the local real estate excise tax
37 account, the local sales and use tax account, the marine resources
38 stewardship trust account, the medical aid account, the money-
39 purchase retirement savings administrative account, the money-
40 purchase retirement savings principal account, the motor vehicle

1 fund, the motorcycle safety education account, the move ahead WA
2 account, the move ahead WA flexible account, the multimodal
3 transportation account, the multiuse roadway safety account, the
4 municipal criminal justice assistance account, the oyster reserve
5 land account, the pension funding stabilization account, the
6 perpetual surveillance and maintenance account, the pilotage account,
7 the pollution liability insurance agency underground storage tank
8 revolving account, the public employees' retirement system plan 1
9 account, the public employees' retirement system combined plan 2 and
10 plan 3 account, the public facilities construction loan revolving
11 account, the public health supplemental account, the public works
12 assistance account, the Puget Sound capital construction account, the
13 Puget Sound ferry operations account, the Puget Sound Gateway
14 facility account, the Puget Sound taxpayer accountability account,
15 the real estate appraiser commission account, the recreational
16 vehicle account, the regional mobility grant program account, the
17 resource management cost account, the rural arterial trust account,
18 the rural mobility grant program account, the rural Washington loan
19 fund, the sexual assault prevention and response account, the site
20 closure account, the skilled nursing facility safety net trust fund,
21 the small city pavement and sidewalk account, the special category C
22 account, the special wildlife account, the state investment board
23 expense account, the state investment board commingled trust fund
24 accounts, the state patrol highway account, the state reclamation
25 revolving account, the state route number 520 civil penalties
26 account, the state route number 520 corridor account, the statewide
27 broadband account, the statewide tourism marketing account, the
28 supplemental pension account, the Tacoma Narrows toll bridge account,
29 the teachers' retirement system plan 1 account, the teachers'
30 retirement system combined plan 2 and plan 3 account, the tobacco
31 prevention and control account, the tobacco settlement account, the
32 toll facility bond retirement account, the transportation 2003
33 account (nickel account), the transportation equipment fund, the
34 transportation future funding program account, the transportation
35 improvement account, the transportation improvement board bond
36 retirement account, the transportation infrastructure account, the
37 transportation partnership account, the traumatic brain injury
38 account, the University of Washington bond retirement fund, the
39 University of Washington building account, the voluntary cleanup
40 account, the volunteer firefighters' and reserve officers' relief and

1 pension principal fund, the volunteer firefighters' and reserve
2 officers' administrative fund, the vulnerable roadway user education
3 account, the Washington judicial retirement system account, the
4 Washington law enforcement officers' and firefighters' system plan 1
5 retirement account, the Washington law enforcement officers' and
6 firefighters' system plan 2 retirement account, the Washington public
7 safety employees' plan 2 retirement account, the Washington school
8 employees' retirement system combined plan 2 and 3 account, the
9 Washington state patrol retirement account, the Washington State
10 University building account, the Washington State University bond
11 retirement fund, the water pollution control revolving administration
12 account, the water pollution control revolving fund, the Western
13 Washington University capital projects account, the Yakima integrated
14 plan implementation account, the Yakima integrated plan
15 implementation revenue recovery account, and the Yakima integrated
16 plan implementation taxable bond account. Earnings derived from
17 investing balances of the agricultural permanent fund, the normal
18 school permanent fund, the permanent common school fund, the
19 scientific permanent fund, and the state university permanent fund
20 shall be allocated to their respective beneficiary accounts.

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

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

30 NEW SECTION. **Sec. 9.** Section 7 of this act expires July 1,
31 2024.

32 NEW SECTION. **Sec. 10.** Section 8 of this act takes effect July
33 1, 2024.

34 NEW SECTION. **Sec. 11.** This act takes effect October 1, 2023.

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