
SENATE BILL 5967

State of Washington

67th Legislature

2022 Regular Session

By Senators Carlyle and Rolfes

1 AN ACT Relating to imposing a state climate resiliency and
2 mitigation surcharge on large financial institutions financing the
3 global fossil fuel industry while recognizing the financial
4 institution industry's efforts to address climate change; amending
5 RCW 82.04.29004; adding a new section to chapter 70A.05 RCW; adding a
6 new section to chapter 82.04 RCW; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

9 (a) The Paris agreement is a binding international treaty on
10 climate change, which was adopted by 196 parties, including the
11 United States in Paris, in 2015;

12 (b) The Paris agreement is a landmark agreement that establishes
13 a framework for bringing all nations into a common cause to undertake
14 ambitious efforts to combat climate change and adapt to its effects;

15 (c) In recent years, the state of Washington has taken equally
16 ambitious efforts to meet science-based net zero targets by 2050
17 under RCW 70A.45.020. In order to meet these obligations, the state
18 has adopted a range of decarbonization bills including: Cap and
19 invest, clean fuel standard, eliminating fossil fuels from
20 electricity supply by 2045, building efficiency standards,

1 hydrofluorocarbon elimination, electrification of transportation, and
2 more;

3 (d) Implementation of these policies requires economic and social
4 transformation;

5 (e) To achieve economic and social transformation, it is
6 essential that every private and governmental institution, and the
7 citizenry served by these institutions, contribute to this effort;

8 (f) Notwithstanding these global, national, and state-level
9 efforts to address climate change, the world's largest commercial and
10 investment banks have been largely omitted from these efforts and, to
11 a certain extent, impeded these efforts in recent years through
12 fossil fuel industry financing practices;

13 (g) In fact, banks play a disproportionate and comprehensive role
14 in climate change by financing fossil fuel projects worldwide that
15 are directly and scientifically shown to be the primary cause of
16 climate change. Between 2016 and 2021, data shows that the 60 largest
17 commercial and investment banks through their lending and
18 underwriting practices invested a total of \$3,800,000,000,000 into
19 fossil fuels;

20 (h) Despite this track record by the financial industry of
21 continuing to pour financing into companies that directly engage in
22 oil and gas extraction, petroleum refining, coal mining, and other
23 fossil fuel industries, a coalition of the world's biggest investors,
24 banks and insurers at the 2021 climate change conference made a
25 pledge, referred to as the Glasgow financial alliance for net zero,
26 to align their lending and investment portfolios with net zero
27 emissions by 2050. According to a press release by the Glasgow
28 financial alliance for net zero, participating financial institutions
29 "have committed to high ambition, science-based targets, including
30 achieving net zero emissions by 2050 at the latest, delivering their
31 fair share of 50 percent emission reductions this decade, and
32 reviewing their targets towards this every five years"; and

33 (i) In 2020, the office of financial management prepared a report
34 indicating that, in the 2019-2021 biennium, the state spent
35 approximately \$1,400,000,000 on programs, projects, and activities
36 that contribute to climate resiliency.

37 (2) Therefore it is the legislature's intent to:

38 (a) Require financial institutions to directly, demonstrably, and
39 transparently contribute at the state level to Washington's climate
40 resiliency and mitigation commitment efforts;

- 1 (b) Provide additional funding for climate resiliency efforts;
- 2 (c) Encourage financial institutions to expeditiously cease
- 3 financial practices that create a negative externality and impede
- 4 efforts to address climate change; and
- 5 (d) Achieve these objectives by establishing a surcharge on
- 6 financial institutions that continue to significantly finance the
- 7 fossil fuel industry.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.05
 9 RCW to read as follows:

10 (1) (a) From January 1, 2023, through December 31, 2049, a climate
 11 resiliency and mitigation surcharge is imposed on specified financial
 12 institutions that are bankers of fossil fuels. The surcharge is equal
 13 to the gross income of the business taxable under RCW 82.04.290(2)
 14 multiplied by the rate specified under (b) of this subsection (1).
 15 The surcharge is in addition to any other fees or taxes imposed on
 16 specified financial institutions.

17 (b) Except as provided in subsection (3) of this section, the
 18 rate for the climate resiliency and mitigation surcharge is
 19 determined by the total amount of adjusted fossil fuel financing
 20 provided by a specified financial institution's consolidated
 21 financial institution group, as a percentage of total financing for
 22 all industries provided by the institution's consolidated financial
 23 institution group, for the prior calendar year, based on the
 24 following schedule:

Adjusted Fossil Fuel Financing as Percent of Total Financing	Climate Resiliency and Mitigation Surcharge Rate
4.0 percent or more	0.50 percent
2.5 percent or more to 4.0 percent	0.375 percent
Less than 2.5 percent	0.25 percent

32 (c) The rate under (b) of this subsection for a specified
 33 financial institution must be adjusted July 1, 2024, and each July
 34 1st thereafter, if: (i) The specified financial institution's
 35 consolidated financial institution group's adjusted fossil fuel
 36 financing percentage, as determined by the most recent Washington
 37 fossil fuel financing report, requires a different rate under (b) of

1 this subsection; or (ii) the specified financial institution is no
2 longer a banker of fossil fuels.

3 (2) The department of revenue shall administer the climate
4 resiliency and mitigation surcharge imposed under this section in a
5 manner consistent with the financial institution surtax under RCW
6 82.04.29004. The conditions and requirements in RCW 82.04.29004 (3)
7 and (4) apply to this section.

8 (3)(a) By October 1, 2022, the department of commerce must
9 publish a report assessing the adjusted fossil fuel financing, as a
10 percentage of total financing for all industries, for each specified
11 financial institution's consolidated financial institution group in
12 calendar year 2021. To make this determination, the department of
13 commerce shall use league tables published by a well-established
14 financial data analytics and services firm that provides financial,
15 economic, and government information covering industry sectors. The
16 report published under this subsection (3)(a) must be used to set the
17 rate under subsection (1)(b) of this section for calendar year 2023.

18 (b) By April 1, 2024, and by each April 1st thereafter, the
19 department of commerce must publish a similar report for use in the
20 climate resiliency and mitigation surcharge rate determination under
21 subsection (1)(b) of this section by assessing the adjusted fossil
22 fuel financing, as a percentage of total financing for all
23 industries, for each specified financial institution's consolidated
24 financial institution group, for the prior calendar year. The report
25 published under this subsection (3)(b) must be used to set the rate
26 under subsection (1)(b) of this section, as adjusted under subsection
27 (1)(c) of this section, for fiscal year 2025 and thereafter.

28 (4) The surcharge collected under this section must be deposited
29 into the climate resiliency account in RCW 43.79.545.

30 (5) The definitions in this subsection apply throughout this
31 section unless the context clearly requires otherwise.

32 (a) "Adjusted fossil fuel financing" means league table credit
33 for financing fossil fuel companies less league table credit for
34 financing renewable energy companies.

35 (b) "Banker of fossil fuels" means a specified financial
36 institution that is part of a consolidated financial institution
37 group listed in the Washington fossil fuel financing report as
38 receiving league table credit financing one or more fossil fuel
39 companies in excess of \$1,000,000,000, in the aggregate, in the prior
40 calendar year.

1 (c) "Financing" means lending or underwriting of corporate bonds,
2 government bonds, or equity issuances.

3 (d) "Fossil fuel company" means a business listed in one of the
4 following industry classifications as provided in a league table:

5 (i) Coal operation;

6 (ii) Oil and gas exploration and production;

7 (iii) Integrated oils;

8 (iv) Oil and gas services and equipment;

9 (v) Oil and gas pipelines; and

10 (vi) Oil and gas refining and marketing.

11 (e) "League table" means a table aggregating the lead financing
12 provided by financial institutions to various industry sectors.

13 (f) "Renewable energy company" means a business listed in the
14 renewable energy classification, which includes biofuels, renewable
15 energy equipment, and renewable energy project development.

16 (g) "Specified financial institution" has the same meaning as
17 provided in RCW 82.04.29004.

18 (h) "Washington fossil fuel financing report" means the report
19 developed under subsection (3) of this section.

20 **Sec. 3.** RCW 82.04.29004 and 2019 c 420 s 2 are each amended to
21 read as follows:

22 (1) (a) Beginning January 1, 2020, in addition to any other taxes
23 imposed under this chapter, an additional tax is imposed on specified
24 financial institutions. The additional tax is equal to the gross
25 income of the business taxable under RCW 82.04.290(2) multiplied by
26 the rate of 1.2 percent, subject to modification under (b) of this
27 subsection.

28 (b) Beginning July 1, 2024, and every July 1st thereafter, a
29 specified financial institution, if notified by the department, may
30 adjust its rate for the current fiscal year under this section as
31 follows:

32 (i) The specified financial institution is subject to a rate of
33 1.075 percent if the institution is subject to a rate of 0.375
34 percent under section 2 of this act for the fiscal year; and

35 (ii) The specified financial institution is subject to a rate of
36 0.95 percent if the institution is subject to a rate of 0.25 percent
37 under section 2 of this act for the fiscal year.

38 (2) The definitions in this subsection apply throughout this
39 section unless the context clearly requires otherwise.

1 (a) "Affiliated" means a person that directly or indirectly,
2 through one or more intermediaries, controls, is controlled by, or is
3 under common control with another person. For purposes of this
4 subsection (2)(a), "control" means the possession, directly or
5 indirectly, of more than fifty percent of the power to direct or
6 cause the direction of the management and policies of a person,
7 whether through the ownership of voting shares, by contract, or
8 otherwise.

9 (b) "Consolidated financial institution group" means all
10 financial institutions that are affiliated with each other.

11 (c) "Consolidated financial statement" means a consolidated
12 financial institution group's consolidated reports of condition and
13 income filed with the federal financial institutions examination
14 council, or successor agency.

15 (d) "Financial institution" means:

16 (i) Any corporation or other business entity chartered under
17 Titles 30A, 30B, 31, 32, and 33 RCW, or registered under the federal
18 bank holding company act of 1956, as amended, or registered as a
19 savings and loan holding company under the federal national housing
20 act, as amended;

21 (ii) A national bank organized and existing as a national bank
22 association pursuant to the provisions of the national bank act, 12
23 U.S.C. Sec. 21 et seq.;

24 (iii) A savings association or federal savings bank as defined in
25 the federal deposit insurance act, 12 U.S.C. Sec. 1813(b)(1);

26 (iv) Any bank or thrift institution incorporated or organized
27 under the laws of any state;

28 (v) Any corporation organized under the provisions of 12 U.S.C.
29 Sec. 611 through 631;

30 (vi) Any agency or branch of a foreign depository as defined in
31 12 U.S.C. Sec. 3101 that is not exempt under RCW 82.04.315;

32 (vii) A production credit association organized under the federal
33 farm credit act of 1933, all of whose stock held by the federal
34 production credit corporation has been retired;

35 (viii) Any corporation or other business entity who receives
36 gross income taxable under RCW 82.04.290, and whose voting interests
37 are more than fifty percent owned, directly or indirectly, by any
38 person or business entity described in (d)(i) through (vii) of this
39 subsection other than an insurance company liable for the insurance

1 premiums tax under RCW 48.14.020 or any other company taxable under
2 chapter 48.14 RCW;

3 (ix) (A) A corporation or other business entity that receives more
4 than fifty percent of its total gross income for federal income tax
5 purposes from finance leases. For purposes of this subsection, a
6 "finance lease" means a lease that meets two requirements:

7 (I) It is the type of lease permitted to be made by national
8 banks (see 12 U.S.C. Sec. 24(7) and (10), comptroller of the currency
9 regulations, part 23, leasing (added by 56 C.F.R. Sec. 28314, June
10 20, 1991, effective July 22, 1991), and regulation Y of the federal
11 reserve system 12 C.F.R. Part 225.25, as amended); and

12 (II) It is the economic equivalent of an extension of credit,
13 i.e., the lease is treated by the lessor as a loan for federal income
14 tax purposes. In no event does a lease qualify as an extension of
15 credit where the lessor takes depreciation on such property for
16 federal income tax purposes.

17 (B) For this classification to apply, the average of the gross
18 income in the current tax year and immediately preceding two tax
19 years must satisfy the more than fifty percent requirement;

20 (x) Any other person or business entity, other than an insurance
21 general agent taxable under RCW 82.04.280(1)(e), an insurance
22 business exempt from the business and occupation tax under RCW
23 82.04.320, a real estate broker taxable under RCW 82.04.255, a
24 securities dealer or international investment management company
25 taxable under RCW 82.04.290(2), that receives more than fifty percent
26 of its gross receipts from activities that a person described in
27 (d)(ii) through (vii) and (ix) of this subsection is authorized to
28 transact.

29 (e) (i) "Specified financial institution" means a financial
30 institution that is a member of a consolidated financial institution
31 group that reported on its consolidated financial statement for the
32 previous calendar year annual net income of at least one billion
33 dollars, not including net income attributable to noncontrolling
34 interests, as the terms "net income" and "noncontrolling interest"
35 are used in the consolidated financial statement.

36 (ii) If financial institutions are no longer required to file
37 consolidated financial statements, "specified financial institution"
38 means any person that was subject to the additional tax in this
39 section in at least two of the previous four calendar years.

1 (3) The department must notify the fiscal committees of the
2 legislature if financial institutions are no longer required to file
3 consolidated financial statements.

4 (4) To aid in the effective administration of the additional tax
5 imposed in this section, the department may require a person believed
6 to be a specified financial institution to disclose whether it is a
7 member of a consolidated financial institution group and, if so, to
8 identify all other members of its consolidated financial institution
9 group. A person failing to comply with this subsection is deemed to
10 have intended to evade tax payable under this section and is subject
11 to the penalty in RCW 82.32.090(7) on any tax due under this section
12 by the person and any financial institution affiliated with the
13 person.

14 (5) Taxes collected under this section must be deposited into the
15 general fund.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04
17 RCW to read as follows:

18 See climate resiliency and mitigation surcharge in chapter 70A.05
19 RCW.

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