

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 of 0.5 percent. The surcharge is in addition

15 to any other fees or taxes imposed on specified financial

16 institutions.

17 (b) On an annual basis, the department of commerce shall

18 determine the appropriate climate resiliency and mitigation tier for

19 a specified financial institution's consolidated financial

20 institution group, as provided under subsection (3) of this section,

21 based on the following tier schedule:

Adjusted Fossil Fuel Financing as Percent of Total Financing	Climate Resiliency and Mitigation Tier
More than 2.0 percent	Tier I
1.0 percent or more to 2.0 percent	Tier II
Less than 1.0 percent	Tier III

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29 (2) The department of revenue shall administer the climate

30 resiliency and mitigation surcharge imposed under this section in a

31 manner consistent with the financial institution surtax under RCW

32 82.04.29004. The conditions and requirements in RCW 82.04.29004 (3)

33 and (4) apply to this section.

34 (3) By October 1, 2022, and by October 1st of each year

35 thereafter, the department of commerce must publish a report

36 assessing the adjusted fossil fuel financing, as a percentage of

37 total financing for all industries for the prior calendar year, for

1 each specified financial institution's consolidated financial
2 institution group and assign the specified financial institution to
3 the appropriate climate resiliency and mitigation tier under
4 subsection (1) of this section. To make this determination, the
5 department of commerce shall use league tables published by a well-
6 established financial data analytics and services firm that provides
7 financial, economic, and government information covering industry
8 sectors. The report published under this subsection (3) must be used
9 to set the fossil fuel financing tier under subsection (1)(b) of this
10 section.

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

13 (5) Chapter 82.32 RCW applies to the climate resiliency and
14 mitigation surcharge imposed in this section. The due dates,
15 reporting periods, and return requirements applicable to chapter
16 82.04 RCW apply equally to the surcharge imposed in this chapter.

17 (6) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.

19 (a) "Adjusted fossil fuel financing" means league table credit
20 for financing fossil fuel companies less league table credit for
21 financing renewable energy companies.

22 (b) "Banker of fossil fuels" means a specified financial
23 institution that is part of a consolidated financial institution
24 group listed in the Washington fossil fuel financing report as
25 receiving league table credit financing one or more fossil fuel
26 companies in excess of \$1,000,000,000, in the aggregate, in the prior
27 calendar year.

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

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

- 32 (i) Coal operation;
33 (ii) Oil and gas exploration and production;
34 (iii) Integrated oils;
35 (iv) Oil and gas services and equipment;
36 (v) Oil and gas pipelines; and
37 (vi) Oil and gas refining and marketing.

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

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

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

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

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

10 (1) (a) Beginning January 1, 2020, in addition to any other taxes
11 imposed under this chapter, an additional tax is imposed on specified
12 financial institutions. The additional tax is equal to the gross
13 income of the business taxable under RCW 82.04.290(2) multiplied by
14 the rate of 1.2 percent, subject to modification on January 1st of
15 each calendar year as provided under (b) of this subsection.

16 (b) Beginning January 1, 2023, a specified financial institution
17 subject to the climate resiliency and mitigation surcharge under
18 section 2 of this act and assigned an adjusted fossil fuel financing
19 percentage in:

20 (i) Tier I under section 2(1) of this act is subject to a rate of
21 0.70 percent;

22 (ii) Tier II under section 2(1) of this act is subject to a rate
23 of 0.65 percent;

24 (iii) Tier III under section 2(1) of this act is subject to a
25 rate of 0.60 percent.

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

28 (a) "Affiliated" means a person that directly or indirectly,
29 through one or more intermediaries, controls, is controlled by, or is
30 under common control with another person. For purposes of this
31 subsection (2)(a), "control" means the possession, directly or
32 indirectly, of more than fifty percent of the power to direct or
33 cause the direction of the management and policies of a person,
34 whether through the ownership of voting shares, by contract, or
35 otherwise.

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

38 (c) "Consolidated financial statement" means a consolidated
39 financial institution group's consolidated reports of condition and

1 income filed with the federal financial institutions examination
2 council, or successor agency.

3 (d) "Financial institution" means:

4 (i) Any corporation or other business entity chartered under
5 Titles 30A, 30B, 31, 32, and 33 RCW, or registered under the federal
6 bank holding company act of 1956, as amended, or registered as a
7 savings and loan holding company under the federal national housing
8 act, as amended;

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

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

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

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

18 (vi) Any agency or branch of a foreign depository as defined in
19 12 U.S.C. Sec. 3101 that is not exempt under RCW 82.04.315;

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

23 (viii) Any corporation or other business entity who receives
24 gross income taxable under RCW 82.04.290, and whose voting interests
25 are more than fifty percent owned, directly or indirectly, by any
26 person or business entity described in (d)(i) through (vii) of this
27 subsection other than an insurance company liable for the insurance
28 premiums tax under RCW 48.14.020 or any other company taxable under
29 chapter 48.14 RCW;

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

34 (I) It is the type of lease permitted to be made by national
35 banks (see 12 U.S.C. Sec. 24(7) and (10), comptroller of the currency
36 regulations, part 23, leasing (added by 56 C.F.R. Sec. 28314, June
37 20, 1991, effective July 22, 1991), and regulation Y of the federal
38 reserve system 12 C.F.R. Part 225.25, as amended); and

39 (II) It is the economic equivalent of an extension of credit,
40 i.e., the lease is treated by the lessor as a loan for federal income

1 tax purposes. In no event does a lease qualify as an extension of
2 credit where the lessor takes depreciation on such property for
3 federal income tax purposes.

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

7 (x) Any other person or business entity, other than an insurance
8 general agent taxable under RCW 82.04.280(1)(e), an insurance
9 business exempt from the business and occupation tax under RCW
10 82.04.320, a real estate broker taxable under RCW 82.04.255, a
11 securities dealer or international investment management company
12 taxable under RCW 82.04.290(2), that receives more than fifty percent
13 of its gross receipts from activities that a person described in
14 (d)(ii) through (vii) and (ix) of this subsection is authorized to
15 transact.

16 (e)(i) "Specified financial institution" means a financial
17 institution that is a member of a consolidated financial institution
18 group that reported on its consolidated financial statement for the
19 previous calendar year annual net income of at least one billion
20 dollars, not including net income attributable to noncontrolling
21 interests, as the terms "net income" and "noncontrolling interest"
22 are used in the consolidated financial statement.

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

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

30 (4) To aid in the effective administration of the additional tax
31 imposed in this section, the department may require a person believed
32 to be a specified financial institution to disclose whether it is a
33 member of a consolidated financial institution group and, if so, to
34 identify all other members of its consolidated financial institution
35 group. A person failing to comply with this subsection is deemed to
36 have intended to evade tax payable under this section and is subject
37 to the penalty in RCW 82.32.090(7) on any tax due under this section
38 by the person and any financial institution affiliated with the
39 person.

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

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

5 See climate resiliency and mitigation surcharge in chapter 70A.05
6 RCW.

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