

# SENATE BILL REPORT

## SB 5967

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As of February 22, 2022

**Title:** An act relating to imposing a state climate resiliency and mitigation surcharge on large financial institutions financing the global fossil fuel industry while recognizing the financial institution industry's efforts to address climate change.

**Brief Description:** Imposing a state climate resiliency and mitigation surcharge on large financial institutions financing the global fossil fuel industry while recognizing the financial institution industry's efforts to address climate change.

**Sponsors:** Senators Carlyle, Rolfes, Lovelett, Nguyen, Robinson and Saldaña.

**Brief History:**

**Committee Activity:** Ways & Means: 2/22/22.

**Brief Summary of Bill**

- Establishes a 0.50 percent climate resiliency and mitigation surcharge on financial institutions financing the global fossil fuel industry in excess of \$1 billion in the prior calendar year, beginning January 1, 2023.
- Deposits surcharge revenues into the climate resiliency account.
- Reduces the existing financial institution Business and Occupation (B&O) surtax by 0.50 percent for any financial institution subject to the climate resiliency and mitigation surcharge, beginning January 1, 2023.
- Authorizes additional financial institution B&O surtax rate reductions for institutions meeting certain target reductions in their global fossil fuel financing.

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**SENATE COMMITTEE ON WAYS & MEANS**

**Staff:** Jeffrey Mitchell (786-7438)

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

**Background:** Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and for services and other activities not classified elsewhere, 1.5 percent for a business with taxable income of less than \$1 million and 1.75 percent for a business with taxable income of \$1 million or more. Several preferential rates also apply to specific business activities.

Beginning on January 1, 2020, an additional B&O tax was imposed on specified financial institutions. The tax is equal to the taxpayer's gross taxable service and other income multiplied by 1.2 percent. A specified financial institution is a financial institution that is a member of a consolidated financial institution group that reported on its consolidated financial statement for the previous calendar year annual net income of at least \$1 billion. Revenue generated from the tax is deposited in the State General Fund.

A league table is a ranking of companies based on a set of criteria, such as revenue, earnings, deals, or any other relevant metrics. For example, investment banking league tables will rank financing institutions on their level of lead underwriting and lending activities to various industry sectors.

In 2019, the Legislature created the climate resiliency account. Expenditures from the account are dedicated to activities that increase climate resiliency and include, but are not limited to:

- response to climate driven stressors;
- prevention of environmental and natural resources degradation;
- activities that restore or improve ecosystem resiliency and sustainability; and
- measures that anticipate, adapt, or minimize the effects climate change has on communities and the natural environment.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Beginning January 1, 2023, a climate resiliency and mitigation surcharge of 0.50 percent is imposed on a specified financial institution financing the fossil fuel industry in excess of \$1 billion in the prior calendar year. Revenues are deposited into the climate resiliency account.

The financial institution B&O surtax rate is reduced by 0.50 percent for any specified financial institution subject to the climate resiliency and mitigation surcharge, that is, the revised financial institution B&O surtax rate would be 0.70 percent.

A financial institution may receive an additional rate reduction of:

- 0.05 if the institution's adjusted fossil fuel financing as a percentage of total financing was between 1.0 percent to 2.0 percent the prior year, that is, the revised financial institution B&O surtax rate would be 0.65 percent; or
- 0.10 if the institution's adjusted fossil fuel financing as a percentage of total financing was less than 1.0 percent the prior year, that is, the revised financial institution B&O surtax rate would be 0.60 percent.

By October 1, 2022, and by October 1st of each year thereafter, the Department of Commerce (Commerce) must publish a report assessing the adjusted fossil fuel financing, as a percentage of total financing for all industries, for financial institutions to determine whether the institution is eligible for an additional financial institution B&O surtax rate reduction. To make this determination, Commerce will use league tables published by a well-established financial data analytics and services firm that provides financial, economic, and government information covering industry sectors.

Definitions of terminology include:

- "adjusted fossil fuel financing" means league table credit for financing fossil fuel companies less league table credit for financing renewable energy companies;
- "financing" means lending or underwriting of corporate bonds, government bonds, or equity issuances;
- "fossil fuel company" means a business listed in one of the following industry classifications as provided in a league table—coal operation, oil and gas exploration and production, integrated oils, oil and gas services and equipment, oil and gas pipelines, and oil and gas refining and marketing; and
- "league table" means a table aggregating the lead financing provided by financial institutions to various industry sectors.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony On Proposed Substitute:** PRO: There is data indicating that taxpayers pay about \$1.2 billion per biennium for costs related to climate resiliency. Costs include fire suppression, addressing ocean acidification, riparian zone damage, as well as others. The bill would redirect a portion of the financial institution business and occupation surcharge and deposit into the climate resiliency account without increasing the overall rate through a new climate resiliency and mitigation fund. In fact, it slowly and carefully decreases their taxes as banks meet their own publicly declared climate goals. Most of the global banks subject to the surcharge formally committed to science-based 2050 net zero targets just like the state of Washington. In the last several years,

banks have provided about \$3.8 trillion in fossil fuel financing. These institutions have also increased their share of renewable energy, which is recognized in the legislation. As banks reduce fossil fuel financing and increase financing for renewables, the entity gets a reduction in their taxes. The data is clear and reported directly by the financial institutions. This bill is intended to encourage good behavior and builds accountability for all. This bill would provide an essential service to Washington by increasing funding for climate adaptation and resiliency. This bill is a very important signal to the financial industry. Every major bank is continuing to fund the expansion of the fossil fuel industry. Since the signing of the Paris Agreement, six U.S. banks have loaned \$1.2 trillion to the fossil fuel industry. Climate change is an existential threat, which depends on the financial sector realigning its investment and lending portfolio.

CON: I have concerns about surcharges on fossil fuels. Coal, for example, can burn a lot cleaner than it used to and is very reliable. Other alternative forms of energy are not always reliable and can be very costly. We have been taxed enough already. We should not be punishing people for using coal. The revenue system should be simple, straightforward, and easily understood to foster voluntary compliance. We have issues regarding the administration of the bill and the complexity of the bill. We are also concerned that it attempts to tax businesses on activities that occur outside the state. While the proposed substitute is not technically a tax increase, we fundamentally oppose any legislation that is punitive in nature. From an environmental standpoint, this bill is contradictory and duplicative. Fossil fuel companies need access to capital to help them make changes to reduce emissions. These institutions should be incentivized for their decarbonization efforts. This bill would hold harmless banks not serving Washington. There is also a compounding problem where a much larger bank could be subject to the same surcharge amount because the institution happens to have a more limited presence in Washington. The number one threat to climate change is from the amount of goods we acquire from far away. Seventy percent of manufacturing and agriculture comes from businesses 6000 to 8000 miles away. The emissions from this transporting process are terrible.

OTHER : We believe there might be an accidental oversight in the legislation where financial institutions in Tier 2 or Tier 3 pay less tax than a financial institution not subject to the surcharge at all. The department is concerned about basing the climate surcharge on league tables, which are published by a private entity. There is no provision addressing what happens if the entity ceases publishing the league tables. The scoring of financial institutions in terms of their fossil fuel financing would not be based on their accounting records, but instead on commercially prepared data. This would require the acceptance of third party data that we would be unable to verify or audit and would require an unknown level of interpretation.

**Persons Testifying:** PRO: Senator Reuven Carlyle, Prime Sponsor; David Perk, 350 Seattle.

CON: Laurie Layne; Tommy Gantz, Association of Washington Business; Peter Godlewski,

Association of Washington Business; John Worthington.

OTHER: Steve Ewing, Department of Revenue; Glenn Blackmon, WA Dept of Commerce; Trent House, Washington Bankers Association.

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