

118TH CONGRESS  
2D SESSION

# S. 5592

To amend the Bank Holding Company Act of 1956 to prohibit bank holding companies from facilitating fossil fuel production from new sources, or from facilitating transactions that would provide funds for the construction of new or expanded fossil infrastructure that would drive such production, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 18 (legislative day, DECEMBER 16), 2024

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Bank Holding Company Act of 1956 to prohibit bank holding companies from facilitating fossil fuel production from new sources, or from facilitating transactions that would provide funds for the construction of new or expanded fossil infrastructure that would drive such production, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Protecting America’s  
5       Economy from the Carbon Bubble Act of 2023”.

1 **SEC. 2. PROHIBITION ON FACILITATING FOSSIL FUEL PRO-**  
 2 **DUCTION FROM NEW SOURCES.**

3 The Bank Holding Company Act of 1956 (12 U.S.C.  
 4 1841 et seq.) is amended by adding at the end the fol-  
 5 lowing:

6 **“SEC. 15. PROHIBITION ON FACILITATING FOSSIL FUEL**  
 7 **PRODUCTION FROM NEW SOURCES.**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the terms ‘exchange’, ‘issuer’, and ‘secu-  
 10 rity’ have the meanings given those terms in section  
 11 3(a) of the Securities Exchange Act of 1934 (15  
 12 U.S.C. 78c(a));

13 “(2) the term ‘financial company’ means—

14 “(A) a bank holding company, savings and  
 15 loan holding company, or similar institution;

16 “(B) a foreign banking organization or  
 17 company that is treated as a bank holding com-  
 18 pany under this Act;

19 “(C) an insured depository institution, a  
 20 thrift institution, a savings association, an in-  
 21 dustrial loan company, or similar institution; or

22 “(D) any subsidiary, agency, or affiliate of  
 23 an entity described in subparagraph (A), (B),  
 24 or (C);

25 “(3) the term ‘fossil fuel’ means coal, petro-  
 26 leum, natural gas, or any derivative of coal, petro-

1        leum, or natural gas, that is used for fuel, including  
 2        hydrogen combined with any such derivative;

3            “(4) the term ‘fossil infrastructure’ means fossil  
 4        fuel-related projects, including wells, rail infrastruc-  
 5        ture, pipelines, terminals, refineries, and power  
 6        plants;

7            “(5) the term ‘national securities exchange’  
 8        means an exchange registered as a national securi-  
 9        ties exchange in accordance with section 6 of the Se-  
 10       curities Exchange Act of 1934 (15 U.S.C. 78f);

11          “(6) the term ‘new sources’ means—

12            “(A) any production in excess of proven  
 13        developed producing reserves of fossil fuels, as  
 14        of the date of enactment of this section; or

15            “(B) new or expanded fossil infrastructure  
 16        that would facilitate the production described in  
 17        subparagraph (A);

18          “(7) the term ‘production’ means extractive or  
 19        production activities that result in fossil fuels being  
 20        made available for refining or use; and

21          “(8) the term ‘publicly traded entity’ means an  
 22        issuer, the securities of which are listed on a na-  
 23        tional securities exchange.

24          “(b) PROHIBITION.—No financial company may fa-  
 25        cilitate production, including by—

1           “(1) making loans to, making investments in,  
2           or otherwise engaging in any activity that is finan-  
3           cial in nature, or incidental to such financial activ-  
4           ity, with a fossil fuel company;

5           “(2) making loans to, making investments in,  
6           or otherwise engaging in any activity that is finan-  
7           cial in nature, or incidental to such financial activ-  
8           ity, for a fossil fuel project;

9           “(3) taking compensation to arrange, or facili-  
10          tate a transaction that provides funds for, produc-  
11          tion with respect to new sources;

12          “(4) securitizing assets that provide funds for  
13          production with respect to new sources;

14          “(5) entering into a derivatives transaction de-  
15          signed to provide funding for, facilitate, or hedge  
16          risks from production with respect to new sources;

17          “(6) engaging in any activity that is com-  
18          plementary to a financial activity involving produc-  
19          tion with respect to new sources, including financing  
20          the international trade of production with respect to  
21          new sources; or

22          “(7) engaging in any other form of activity de-  
23          fined by regulators or supervisors of the financial  
24          company.

25          “(c) COMPLIANCE PROGRAM.—

1           “(1) IN GENERAL.—Each financial company  
 2           shall maintain policies and procedures reasonably  
 3           designed to ensure that relationships with customers  
 4           or counterparties do not facilitate production with  
 5           respect to new sources.

6           “(2) ATTESTATION.—The chief executive officer  
 7           of each financial company shall comply with an at-  
 8           testation for compliance with this section, subject to  
 9           such rules as the Board may prescribe that shall be  
 10          no less strict than those set forth under section  
 11          351.20(c) of title 12, Code of Federal Regulations,  
 12          or any successor regulation.

13          “(3) SUPERVISION.—The appropriate Federal  
 14          banking agency shall supervise the policies and pro-  
 15          cedures described in this subsection and the imple-  
 16          mentation of those policies and procedures.

17          “(d) PENALTIES.—

18               “(1) CRIMINAL PENALTY.—

19                   “(A) IN GENERAL.—Whoever knowingly  
 20                   violates any provision of this section or, being  
 21                   a company, violates any regulation or order  
 22                   issued by the Board under this section, shall be  
 23                   imprisoned not more than 1 year, fined not  
 24                   more than \$1,000,000 per day for each day  
 25                   during which the violation continues, or both.

1           “(B) INTENT TO DECEIVE, DEFRAUD, OR  
2           PROFIT.—Whoever, with the intent to deceive,  
3           defraud, or profit significantly, knowingly vio-  
4           lates any provision of this section shall be im-  
5           prisoned not more than 5 years, fined not more  
6           than \$5,000,000 per day for each day during  
7           which the violation continues, or both.

8           “(2) PROHIBITION ON EMPLOYMENT.—Any in-  
9           dividual who knowingly violates any provision of this  
10          section shall be banned from future employment  
11          with any bank holding company or issuer or publicly  
12          traded entity.

13          “(3) CIVIL MONETARY PENALTY.—Any finan-  
14          cial company that violates, and any individual who  
15          participates in a violation of, any provision of this  
16          section, or any regulation or order issued under this  
17          section, shall forfeit all revenues associated with  
18          such a violation and pay an additional civil penalty  
19          of not more than \$25,000 for each day during which  
20          the violation continues.”.

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