LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3545

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 14, 2025

SUMMARY

Synopsis:	"Climate Superfund Act"; imposes liability on certain fossil fuel companies for certain damages caused by climate change and establishes program in DEP to collect and distribute compensatory payments.
Type of Impact:	Multi-year State expenditure increase and potential multi-year State revenue increase.
Agencies Affected:	Department of Environmental Protection; Department of the Treasury.

Office of Legislative Services Estimate	
Potential Multi-Year State Revenue Increase	Indeterminate
Multi-Year State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) lacks the empirical basis to quantify the State revenue and expenditure increases that may result from the establishment of the bill's Climate Superfund Cost Recovery Program. This is so because: a) a scientific multi-year process is to determine the greenhouse gas emissions damages to be collected; b) the State's legal ability to collect the damages is subject to significant uncertainty; and c) the exact timing of compensatory payments and program expenditures is unknown.

- The State revenue gain would be from damages paid by parties deemed responsible under the bill for New Jersey's costs attributable to greenhouse gas emissions. The bill's short-term State expenditure increases would accrue from administrative expenditures, including from the engagement of any consultants to assist with the determination of damages amounts, and from any legal expenses related to defending the legislation in court. If damages were collected, the State would also incur longer-term costs from using the collections to award grants to climate change adaptation and resilience projects.

BILL DESCRIPTION

The bill would require the Department of the Treasury, within two years after the bill's enactment, to determine the costs to the State of covered greenhouse gas emissions occurring from January 1, 1995 through the end of the calendar year in which the bill is enacted. The Department of Environmental Protection would then have two years from the issuance of Treasury's findings to adopt rules and regulations to implement the bill's Climate Superfund Cost Recovery Program.

Within six months following the promulgation of the rules and regulations, the Department of Environmental Protection would issue proportional cost recovery demands to each party held responsible for the costs to the State of covered greenhouse gas emissions. Responsible parties are entities that during any part of the covered period were engaged in the business of extracting fossil fuel or refining crude oil, are deemed responsible for more than one billion metric tons of covered greenhouse gas emissions, and are required to pay New Jersey sales and use tax.

Responsible parties would have the option of paying the assessed cost recovery demand amount either in full within six months of the issuance of the cost recovery demand or in nine annual installments. The first installment would equal 20 percent of the assessed total and would be due within six months of the issuance of the cost recovery demand. The eight subsequent annual installments would each equal 10 percent of the assessed amount.

The Department of Environmental Protection would deposit cost recovery payments into the Climate Superfund Cost Recovery Program Fund established by the bill. Fund balances would be used for the awarding of grants for climate change adaptation and resilience projects.

The Department of Environmental Protection would also have to issue an annual report on the Climate Superfund Cost Recovery Program starting within five years after the bill's enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS lacks the empirical basis to determine the magnitude and timing of the State revenue and expenditure increases that may result from this bill, for the following reasons:

- Unknown Damages Assessments: The total cost to the State of greenhouse gas emissions since 1995 is to be determined by the Department of the Treasury within two years after the bill's enactment with the Department of Environmental Protection subsequently determining which portion thereof it would be authorized to seek in damages. The OLS is not in a position to perform these complex calculations in a significantly more compressed timeframe. For context, the OLS notes that similar legislation recently enacted in the State of New York includes a total assessment of $75.0 billion.

- Substantial Legal Risk: The State's ability to enforce the provisions of this bill is subject to substantial legal uncertainty with the potential for non-trivial legal costs if the State will have to defend the Climate Superfund Cost Recovery Program in litigation.

  Similar laws enacted in Vermont and New York in 2024 are currently facing legal challenges from other states, industry groups, and, as of May 2025, the federal government.

It would be overly speculative for the OLS to forecast the outcomes of these lawsuits and the extent to which decisions by competent courts might bar, limit, or delay the implementation of New Jersey's Climate Superfund Cost Recovery Program.

- Unknown Payment Schedule: The exact timing of compensatory payments and program expenditures is unknown. The Department of the Treasury has up to two years after the bill's enactment to calculate the total amount of greenhouse gas emissions costs to the State. The Department of Environmental Protection has two years following this to adopt rules and regulations to implement the law, and then would be required to issue cost recovery demands to responsible parties within six months thereafter.

  Beyond these temporal requirements, the timeline is largely unknown. The OLS cannot predict how many responsible parties would dispute the assessment, how many would choose to pay immediately in full, how many would choose to pay in installments, and the extent to which litigation might delay the implementation of New Jersey's Climate Superfund Cost Recovery Program.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).\