# LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE, No. 3545

# STATE OF NEW JERSEY
# 221st LEGISLATURE

DATED: JANUARY 15, 2026

## SUMMARY

**Synopsis:** "Polluters Pay to Make New Jersey Affordable Act"; imposes liability on certain fossil fuel companies for funds needed for climate change adaptation projects; establishes program in DEP to collect and distribute funds.

**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**

| Fiscal Impact | |
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| **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 Adaptation, Resiliency, and Affordability Program. This is so because: a) a scientific process is to determine the greenhouse gas emissions cost recovery demands to be collected; b) the State's legal ability to collect the cost recovery demands 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 payments 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 cost recovery demand amounts, and from any legal expenses related to defending the legislation in court. If cost recovery demands 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 establish a Climate Adaptation, Resiliency, and Affordability Program in the Department of Environmental Protection. The bill imposes liability on certain fossil fuel companies for cost recovery payments, based on the amount of greenhouse gas emissions for which the companies are deemed responsible, and establishes a program in the department to

collect and distribute compensatory payments. The department would be required to submit an assessment of the covered greenhouse gas emissions attributable to each responsible party within six months after the bill's enactment. The department would have one year following the enactment of the bill to adopt rules and regulations to implement the program. The program would require companies with significant historic contributions to global greenhouse-gas emissions to bear a share of the cost of infrastructure investments and other adaptation measures necessary to protect State residents, businesses, and natural resources.

Within six months following the promulgation of the rules and regulations, the department would issue proportional cost recovery demands to each party held responsible for the costs to the State of covered greenhouse gas emissions, up to a total maximum of $50 billion. Responsible parties are defined as entities that, during any part of the covered period, were engaged in the business of extracting fossil fuels, and are deemed responsible for more than one billion metric tons of covered greenhouse gas emissions.

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 20 annual installments, adjusted to reflect increases or decreases in the Consumer Price Index. The first installment would equal five percent of the assessed total and would be due within six months of the issuance of the cost recovery demand. The subsequent annual installments would each equal five percent of the assessed amount.

The department would deposit compensatory payments into a newly created Climate Adaptation, Resiliency, and Affordability Fund. The department would develop, implement, and administer a grant program to distribute funds to climate change adaptation and resilience projects. At least 51 percent of grant funds issued under the program would be required to be awarded to projects that provide environmental or other benefits to overburdened communities.

The department would be required to publish annual evaluations of the effectiveness of the program beginning in the second calendar year after the bill is enacted. The department would also be required to publish on its Internet website, prior to the issuance of any final cost recovery demand, a plain-language summary of the methodology, emissions factors, and publicly available data sources used to determine proportional responsibility.

## 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 Cost Recovery Assessments: The total cost to the State of greenhouse gas emissions since 1995 is to be determined by the Department of Environmental Protection within six months after the bill's enactment. The OLS is not in a position to perform these complex calculations in a 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 Adaptation, Resiliency, and Affordability 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 Adaptation, Resiliency, and Affordability Program.

- Unknown Payment Schedule: The exact timing of compensatory payments and program expenditures is unknown. The Department of Environmental Protection has up to six months after the bill's enactment to calculate the total amount of greenhouse gas emissions costs to the State. The department has up to one year following the bill's enactment 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 Adaptation, Resiliency, and Affordability Program.

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| *Section:* | *Environment, Agriculture, Energy, and Natural Resources* |
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| *Approved:* | *Thomas Koenig*<br>*Legislative Budget and Finance Officer* |

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.).