

SENATE, No. 2338

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

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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.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/12/2026)

1 AN ACT concerning damages caused by climate change and
2 supplementing Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "Climate
8 Superfund Act."

9

10 2. As used in this act:

11 "Climate change adaptation project" means a project designed to
12 respond to, avoid, moderate, repair, or adapt to negative impacts
13 caused by climate change and to assist human and natural
14 communities, households, and businesses to prepare for future
15 climate-change-driven disruptions. "Climate change adaptation
16 projects" include, but are not limited to: flood protection projects;
17 home buyouts; upgrades of stormwater drainage systems; defensive
18 upgrades to roads, bridges, railroads, and transit systems;
19 preparation for, and recovery from, extreme weather events;
20 preventive health care programs and providing medical care to treat
21 illness or injury caused by the effects of climate change; relocation,
22 elevation, or retrofits of sewage treatment plants and other
23 infrastructure vulnerable to flooding; installation of energy efficient
24 cooling systems and other weatherization and energy efficiency
25 upgrades and retrofits in public and private buildings, including
26 schools and public housing, designed to reduce the public health
27 effects of more frequent heat waves and forest fire smoke; upgrades
28 to the electrical grid to increase stability and resilience, including
29 the creation of self-sufficient microgrids; and response to toxic
30 algae blooms, loss of agricultural topsoil, crop loss, and other
31 climate-driven ecosystem threats to forests, farms, fisheries, and
32 food systems.

33 "Coal" means bituminous coal, anthracite coal, and lignite.

34 "Commissioner" means the Commissioner of Environmental
35 Protection.

36 "Controlled group" means two or more entities treated as a single
37 employer pursuant to:

38 (1) 26 U.S.C. s.52(a) or (b), without regard to 26 U.S.C.
39 s.1563(b)(2)(C); or

40 (2) 26 U.S.C. s.414(m) or (o).

41 "Cost recovery demand" means a charge imposed upon a
42 responsible party for cost recovery payments under the Climate
43 Superfund Cost Recovery Program established pursuant to section 5
44 of this act for payment into the Climate Superfund Cost Recovery
45 Program Fund established pursuant to section 6 of this act.

46 "Covered greenhouse gas emissions" means the total quantity of
47 greenhouse gases released into the atmosphere during the covered
48 period, expressed in metric tons of carbon dioxide equivalent,

1 resulting from the use of fossil fuels extracted or refined by an
2 entity.

3 "Covered period" means the time period beginning on January 1,
4 1995 and ending on the last day of the calendar year during which
5 this act takes effect.

6 "Crude oil" means oil or petroleum of any kind and in any form,
7 including bitumen, oil sands, heavy oil, conventional and
8 unconventional oil, shale oil, natural gas liquids, condensates, and
9 related fossil fuels.

10 "Department" means the Department of Environmental
11 Protection.

12 "Entity" means any individual, trustee, agent, partnership,
13 association, corporation, company, municipality, political
14 subdivision, or other legal organization, including a foreign nation,
15 that holds or held an ownership interest in a fossil fuel business
16 during the covered period.

17 "Fossil fuel" means coal, petroleum products, and fuel gases.

18 "Fossil fuel business" means a business engaging in the
19 extraction
20 of fossil fuels or the refining of petroleum products.

21 "Fuel gas" means methane, natural gas, liquefied natural gas, and
22 any manufactured fuel gas.

23 "Greenhouse gas" means the same as the term is defined in
24 section 3 of P.L.2007, c.112 (C.26:2C-39).

25 "Notice of cost recovery demand" means the written
26 communication from the department informing a responsible party
27 of the amount of the cost recovery demand payable into the Climate
28 Superfund Cost Recovery Program Fund established pursuant to
29 section 6 of this act.

30 "Overburdened community" means the same as the term is
31 defined in section 2 of P.L.2020, c.92 (C.13:1D-158).

32 "Petroleum product" means any product refined or re-refined
33 from: (1) synthetic or crude oil; or (2) crude oil extracted from
34 natural gas liquids or other sources.

35 "Qualifying expenditure" means an authorized payment from the
36 Climate Superfund Cost Recovery Program Fund established
37 pursuant to section 6 of this act to pay for: (1) a climate change
38 adaptation project, including its operation, monitoring, and
39 maintenance; or (2) reasonable expenses associated with the
40 administration of the Climate Superfund Cost Recovery Program
41 established pursuant to section 5 of this act.

42 "Responsible party" means an entity or a successor in interest to
43 an entity that during any part of the covered period was engaged in
44 the trade or business of extracting fossil fuel or refining crude oil
45 and is determined by the department to be responsible more than
46 one billion metric tons of covered greenhouse gas emissions, except
47 that "responsible party" does not include any entity that is not
48 required to pay New Jersey sales tax.

1 3. a. No later than two years after the effective date of this act,
2 the State Treasurer, in consultation with the department, and with
3 any other person or entity whom the State Treasurer decides to
4 consult for the purpose of obtaining and utilizing credible data or
5 methodologies that the State Treasurer determines may aid the State
6 Treasurer in making the assessments and estimates required by this
7 section, shall submit to the Senate Environment and Energy
8 Committee and the Assembly Environment, Natural Resources and
9 Solid Waste Committee, or their successor committees, an
10 assessment of the damages to the State and its residents that have
11 resulted from covered greenhouse gas emissions.

12 b. The assessment shall include:

13 (1) a summary of the various cost-driving effects of covered
14 greenhouse gas emissions on the State, including effects on public
15 health, natural resources, biodiversity, agriculture, economic
16 development, flood preparedness and safety, housing, and any other
17 effect that the State Treasurer determines is relevant;

18 (2) a categorized calculation of the costs that have been incurred
19 within the State of each of the effects identified in paragraph (1) of
20 this subsection; and

21 (3) a categorized calculation of the costs that have been incurred
22 to abate the effects of covered greenhouse gas emissions on the
23 State and its residents.

24

25 4. a. Each responsible party shall be strictly liable to the State
26 for damages that resulted from covered greenhouse gas emissions,
27 as determined by the State Treasurer pursuant to section 3 of this
28 act. Each responsible party shall make compensatory payments to
29 the State according to its proportional liability, as determined by the
30 department pursuant to section 5 of this act.

31 b. Responsible parties that are entities in a controlled group
32 shall be treated as a single entity for identification purposes, but
33 shall be jointly and severally liable for the payment of any cost
34 recovery demand owed by any entity in the controlled group.

35

36 5. a. There is established the Climate Superfund Cost Recovery
37 Program in the Department of Environmental Protection. The
38 purposes of the program shall be to:

39 (1) secure compensatory payments from responsible parties
40 based on a standard of strict liability;

41 (2) determine the proportional liability of responsible parties;

42 (3) impose cost recovery demands on responsible parties and
43 issue

44 notices of cost recovery demands;

45 (4) accept and collect payment from responsible parties; and

46 (5) disperse funds to implement climate change adaptation
47 projects.

48 b. With respect to each responsible party, the cost recovery
49 demand shall be equal to an amount that bears the same ratio to the

1 cost to the State and its residents, as calculated by the State
2 Treasurer pursuant to section 3 of this act, from the emission of
3 covered greenhouse gases as the responsible party's applicable share
4 of covered greenhouse gas emissions bears to the aggregate
5 applicable shares of covered greenhouse gas emissions resulting
6 from the use of fossil fuels extracted or refined during the covered
7 period.

8 c. If a responsible party owns a minority interest of 10 percent
9 or more in another entity, the responsible party's applicable share of
10 covered greenhouse gas emissions shall be increased by the
11 applicable share of covered greenhouse gas emissions for the entity
12 in which the responsible party holds a minority interest multiplied
13 by the percentage of the minority interest held by the responsible
14 party.

15 d. The department shall use the United States Environmental
16 Protection Agency's Emissions Factors for Greenhouse Gas
17 Inventories, as applied to the best publicly available fossil fuel
18 volume data for the purpose of determining the amount of covered
19 greenhouse gas emissions attributable to any entity from the fossil
20 fuels attributable to the entity.

21 e. The department may adjust the cost recovery demand amount
22 of a responsible party who refined petroleum products or who is a
23 successor in interest to an entity that refines petroleum products if
24 the responsible party establishes to the satisfaction of the
25 department that:

26 (1) a portion of the cost recovery demand amount was
27 attributable to the refining of crude oil extracted by another
28 responsible party; and

29 (2) the crude oil extracted by the other entity was accounted for
30 when the department determined the cost recovery demand amount
31 for the other responsible party or a successor in interest of the other
32 responsible party.

33 f. The department shall issue the cost recovery demands
34 required under this section no later than six months following the
35 adoption of the rules and regulations required under section 8 of
36 this act.

37 g. (1) Except as provided in paragraph (2) of this subsection, a
38 responsible party shall pay the cost recovery demand amount in full
39 no later than six months following the department's issuance of the
40 cost recovery demand.

41 (2) A responsible party may elect to pay the cost recovery
42 demand amount in nine annual installments, provided that:

43 (a) the first installment shall be paid no later than six months
44 following the department's issuance of the cost recovery demand
45 and shall be equal to 20 percent of the total cost recovery demand
46 amount;

47 (b) each subsequent installment shall be paid one year from the
48 initial payment each subsequent year and shall be equal to 10
49 percent of the total cost recovery demand amount. The

1 commissioner, at the commissioner's discretion, may adjust the
2 amount of a subsequent installment payment to reflect increases or
3 decreases in the Consumer Price Index;

4 (c) the unpaid balance of all remaining installments shall become
5 due immediately if the responsible party fails to pay any installment
6 in a timely manner, if there is a liquidation or sale of all, or
7 substantially all, the assets of the responsible party, or if the
8 responsible party ceases to do business; and

9 (d) in the case of a sale of all, or substantially all, the assets of a
10 responsible party, the remaining installments shall not become due
11 immediately if the buyer enters into an agreement with the
12 department under which the buyer assumes liability for the
13 remaining installments due under this section in the same manner as
14 if the buyer were the responsible party.

15 h. The department shall deposit cost recovery payments into the
16 Climate Superfund Cost Recovery Program Fund established by
17 section 6 of this act.

18 i. A responsible party aggrieved by the issuance of a notice of
19 cost recovery demand shall exhaust administrative remedies by
20 filing a request for reconsideration with the department within 15
21 days following issuance of the notice of cost recovery demand. A
22 request for reconsideration shall state the grounds for the request
23 and include supporting documentation. The department shall issue
24 a subsequent notice of cost recovery demand or a retraction, which
25 shall be considered final agency action on the matter for the
26 purposes of the "Administrative Procedure Act," P.L.1968, c.410
27 (C.52:14B-1 et seq.), and shall be subject only to review by a court
28 of competent jurisdiction.

29 j. Nothing in this section shall be construed to supersede or
30 diminish in any way existing remedies available to a person or the
31 State at common law or under statute.

32

33 6. a. There is established in the Department of Environmental
34 Protection a special, nonlapsing fund to be known as the "Climate
35 Superfund Cost Recovery Program Fund." Monies in the fund shall be
36 held separately and be dedicated solely for the purpose of making
37 qualifying expenditures.

38 b. The fund shall be credited with:

39 (1) cost recovery payments distributed to the fund pursuant to
40 section 1 of this act;

41 (2) any other moneys appropriated by the Legislature or otherwise
42 made available to the fund for the purposes of this act;

43 (3) other gifts, donations, or other monies received from any
44 source, public or private, dedicated for deposit into the fund and
45 approved by the State Treasurer; and

46 (4) any interest earnings or other investment income earned or
47 received on the moneys in the fund.

48 c. All moneys appropriated or otherwise made available to the
49 fund shall be dedicated for the purposes of the fund. Pending use,

1 moneys in the fund may be invested and reinvested in the same
2 manner as other moneys of the department in the manner provided by
3 law. All earnings received from the investment or deposit of such
4 moneys shall be paid into and become a part of the fund and be
5 available for use pursuant to this act.

6 d. The department shall establish a grant program to disperse
7 funds from the Climate Superfund Cost Recovery Program Fund to
8 project sponsors of climate change adaptation and resilience projects.
9 In order to effectuate the grant program, the department shall:

10 (1) establish eligibility criteria for a program grant award;

11 (2) adopt guidelines and procedures for the submission of grant
12 applications, including, but not limited to, guidelines and procedures
13 addressing the form and manner in which such applications are to be
14 submitted;

15 (3) establish criteria for the evaluation and prioritization of
16 program grant applications;

17 (4) identify the project costs that are eligible for financing through
18 the use of program grant funding, and identify the specific factors that
19 will be considered, by the department, in determining the appropriate
20 dollar amount of each grant award issued under the program; and

21 (5) identify the terms and conditions for the awarding of a program
22 grant, and for the use of program grant funds awarded, pursuant to this
23 section, including, at a minimum, conditions requiring the recipient of
24 a grant award to report relevant information, to the department,
25 regarding the recipient's expenditure of grant funds awarded thereto
26 under the program.

27

28 7. No later than five years after the effective date of this act, and
29 annually thereafter, the commissioner shall issue a written report to
30 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
31 19.1), summarizing the activities of the Climate Superfund Cost
32 Recovery Program.

33

34 8. No later than two years after the State Treasurer completes
35 the report required by section 3 of this act, the Department of
36 Environmental Protection shall, in accordance with the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.). adopt rules and regulations to implement this act.

39

40 9. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill would be known as the "Climate Superfund Act," and
46 would establish that certain fossil fuel companies are liable for
47 certain damages caused to the State and its residents by the harmful
48 effects of climate change. The bill would also establish a program
49 in the Department of Environmental Protection (DEP) to collect

1 compensatory payments from the fossil fuel companies and
2 distribute them, in the form of grants, to climate change adaptation
3 and resilience projects.

4 Specifically, the bill would apply to fossil fuel companies that
5 fall under the definition of "responsible party" established in the
6 bill, namely an entity or a successor in interest to an entity that was
7 engaged in the trade or business of extracting fossil fuel or refining
8 crude oil and is determined by the DEP to be responsible for more
9 than one billion metric tons of greenhouse gas emissions between
10 January 1, 1995 (the year on which the first United Nations
11 Conference of Parties climate change conference was held) and the
12 last day of the calendar year on which the bill takes effect.

13 The bill would require the State Treasurer to prepare and submit
14 to the Legislature, within two years of the bill's enactment, an
15 assessment of the damages to the State and its residents that have
16 resulted from greenhouse gas emissions since 1995. The bill would
17 establish that each responsible party is strictly liable for the
18 damages, and would require each responsible party to make
19 compensatory damages to the State. In addition, responsible parties
20 that are in a "controlled group" under certain federal laws specified
21 in the bill (e.g. a parent corporation with one or more subsidiary
22 corporations) would be jointly and severally liable for the damages.
23 The DEP would then be required to calculate the proportional share
24 of damages attributable to each responsible party, based on the
25 proportion of total greenhouse gas emissions for which the party is
26 responsible. The DEP would be required to collect compensatory
27 payments from each responsible party that are equal to the party's
28 proportional share of the damages. The bill would establish various
29 provisions regarding the collection and payment of these
30 compensatory payments, as enumerated in section 5 of the bill.

31 The bill would require the DEP to deposit the compensatory
32 payments into the "Climate Superfund Cost Recovery Program
33 Fund," established under section 6 of the bill. The DEP would also
34 be required to develop and implement a grant program to distribute
35 the funds collected to climate change adaptation and resilience
36 projects. The DEP would also be permitted to use moneys in the
37 fund to administer the Climate Superfund Cost Recovery Program,
38 which is established by the bill. The bill would require the DEP to
39 issue annual reports on the program beginning five years after the
40 bill's enactment. Finally, the bill would require the DEP to adopt
41 rules and regulations to implement the bill's provisions no later than
42 two years after the State Treasurer produces the assessment of
43 damages required by the bill.