

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

*Steven Owens and Jack Patrick Lewis*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a climate change superfund.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>1/16/2025</i>

**HOUSE . . . . . No.**

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[Pin Slip]

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**  
\_\_\_\_\_

An Act establishing a climate change superfund.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. The General Laws are hereby amended by inserting after Chapter 21O the  
2 following chapter:

3           CHAPTER 21P

4           CLIMATE CHANGE ADAPTATION COST RECOVERY ACT

5           Section 1. Definitions.

6           For purposes of this chapter, the following terms shall have the following meanings  
7 unless the context clearly requires otherwise:

8           "Applicable payment date", July first of the calendar year following the year in which this  
9 chapter is enacted into law.

10           "Climate change adaptation project", a project designed to avoid, moderate, repair or  
11 adapt to negative impacts of climate change or to assist communities, households and businesses  
12 in preparing for future climate change-driven disruptions. Such projects may include but are not

13 limited to upgrading storm water drainage systems; making defensive upgrades to roads, bridges,  
14 subways, and transit systems; preparing for and recovering from hurricanes, drought, heat waves,  
15 blizzards, severe storms, wildfires, flooding and other extreme weather events; implementing  
16 nature-based solutions for coastal and flood protections and otherwise; undertaking preventive  
17 health care programs and providing medical care to treat illness or injury caused or aggravated  
18 by the effects of climate change; relocating, elevating, or retrofitting sewage treatment plants  
19 vulnerable to flooding; installing energy efficient cooling systems and other weatherization and  
20 energy efficiency upgrades and retrofits in public and private buildings, including schools and  
21 public housing; upgrading parts of the electrical grid to increase stability and resilience,  
22 including supporting the creation of self-sufficient clean energy microgrids; addressing urban  
23 heat island effects through green spaces, urban forestry, and other interventions; and responding  
24 to toxic algae blooms, loss of agricultural topsoil, and other climate-driven ecosystem threats to  
25 forests, farms fisheries, and food systems.

26 “Coal”, bituminous coal, anthracite coal, and lignite.

27 "Controlled group", two or more entities treated as a single employer under section 52(a)  
28 or (b) or section 414(m) or (o) of the internal revenue code. Subsections (a) and (b) of section 52,  
29 section 1563 of the internal revenue code shall be applied without regard to subsection(b)(2)(c).  
30 For purposes of this article, entities in a controlled group are treated as a single entity for  
31 purposes of meeting the definition of responsible party and are jointly and severally liable for  
32 payment of any cost recovery demand owed by any entity in the controlled group.

33 "Cost recovery demand", a charge asserted against a responsible party for cost recovery  
34 payments under the program for payment to the fund.

35 "Covered entity", any individual, trustee, agent, partnership, association, corporation,  
36 company, municipality, political subdivision, or other legal organization, including a foreign  
37 nation, that holds or held an ownership interest in a fossil fuel business during the covered  
38 period.

39 "Covered emissions", with respect to any covered entity, the total quantity of greenhouse  
40 gasses released into the atmosphere, expressed in metric tons of carbon dioxide equivalent,  
41 resulting from the use of fossil fuels extracted by such covered entity during the covered period.

42 "Covered period", the period that began January first, 1995 and ended on December  
43 thirty-first, 2024.

44 "Crude oil", oil or petroleum of any kind and in any form, including bitumen, oil sands,  
45 heavy oil, conventional and unconventional oil, shale oil, natural gas liquids, and condensates.

46 "Department", the Executive Office of Energy and Environmental Affairs or such  
47 subsidiary department as may be identified by the Secretary.

48 "Environmental justice population", a neighborhood that meets 1 or more of the  
49 following criteria: (i) the annual median household income is not more than 65 per cent of the  
50 statewide annual median household income; (ii) minorities comprise 40 per cent or more of the  
51 population; (iii) 25 per cent or more of households lack English language proficiency; or (iv)  
52 minorities comprise 25 per cent or more of the population and the annual median household  
53 income of the municipality in which the neighborhood is located does not exceed 150 per cent of  
54 the statewide annual median household income; provided, however, that for a neighborhood that  
55 does not meet said criteria, but a geographic portion of that neighborhood meets at least 1  
56 criterion, the secretary may designate that geographic portion as an environmental justice

57 population upon the petition of at least 10 residents of the geographic portion of that  
58 neighborhood meeting any such criteria; provided further, that the secretary may determine that a  
59 neighborhood, including any geographic portion thereof, shall not be designated an  
60 environmental justice population upon finding that: (A) the annual median household income of  
61 that neighborhood is greater than 125 per cent of the statewide median household income; (B) a  
62 majority of persons age 25 and older in that neighborhood have a college education; (C) the  
63 neighborhood does not bear an unfair burden of environmental pollution; and (D) the  
64 neighborhood has more than limited access to natural resources, including open spaces and water  
65 resources, playgrounds and other constructed outdoor recreational facilities and venues.

66 "Fossil fuel", coal, crude oil, natural gas, and any other energy source formed from the  
67 remains of ancient plants, animals, and/or microorganisms.

68 "Fossil fuel business", a business engaging in the excavation, pumping, or other  
69 extraction of fossil fuels.

70 "Fund", the climate change adaptation superfund.

71 "Greenhouse gas", any chemical or physical substance that is emitted into the air and that  
72 the department may reasonably anticipate will cause or contribute to climate change including,  
73 but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons  
74 and sulfur hexafluoride.

75 "Nature-based solutions", projects that utilize or mimic nature or natural processes and  
76 functions and that may also offer environmental, economic, and social benefits, while increasing  
77 resilience. Nature-based solutions include both green and natural infrastructure.

78 "Notice of cost recovery demand", the written communication from the department  
79 informing a responsible party of the amount of the cost recovery demand payable to the fund.

80 "Petroleum products", a product that is obtained from distilling and processing crude oil  
81 and that is capable of being used as a fuel for the propulsion of a motor vehicle, boat or aircraft.  
82 The term does not include naphtha-type jet fuel, kerosene-type jet fuel, a petroleum product  
83 destined for use in chemical manufacturing or feedstock of that manufacturing or fuel oil used  
84 for heating purposes.

85 "Program", the climate change adaptation cost recovery program.

86 "Qualifying expenditure", an authorized payment from the fund in support of a climate  
87 change adaptation project, including its operation and maintenance, as defined by the  
88 department.

89 "Responsible party", any covered entity or a successor in interest to such covered entity  
90 described herein, that (1) is determined by the department to have engaged in the trade or  
91 business of extracting fossil fuel during any part of the covered period, in quantities to which  
92 more than one billion metric tons of covered greenhouse gas emissions are attributable and (2) is  
93 subject to the jurisdiction of the commonwealth for purposes of cost recovery demands because,  
94 during any part of the covered period, it (i) did business in Massachusetts, (ii) was registered to  
95 do business in Massachusetts, (iii) was appointed an agent of the state, or (iv) otherwise had  
96 sufficient contacts with Massachusetts to give Massachusetts jurisdiction over the responsible  
97 party consistent with the nexus requirements of the United States Constitution.

98 "Secretary", the Secretary of the Executive Office of Energy and Environmental Affairs.

99 Section 2. The Climate Change Adaptation Cost Recovery Program.

100 (a) There is hereby established a climate change adaptation cost recovery program  
101 administered by the department.

102 (b) The purposes of the program shall be the following:

103 (1) To secure compensatory payments from responsible parties, based on a standard of  
104 strict liability, to provide a source of revenue for climate change adaptation projects within the  
105 state;

106 (2) To determine proportional liability of responsible parties;

107 (3) To impose cost recovery demands on responsible parties and issue notices of cost  
108 recovery demands;

109 (4) To accept and collect payment from responsible parties;

110 (5) To identify climate change adaptation projects;

111 (6) To allocate funds to climate change adaptation projects; and

112 (7) To allocate funds in such a way as to achieve a goal that at least forty per cent of the  
113 qualified expenditures from the program shall go to climate change adaptation projects that  
114 directly benefit environmental justice populations.

115 (c) Within one year of the effective date of this Act, the department shall finalize a  
116 climate cost study, after first providing public notice and opportunity for public comment on a  
117 draft of such study.

118 (1) That climate cost study shall provide a reasonable estimate of the total costs to the  
119 commonwealth and its residents of the emission of greenhouse gases. That total cost estimate  
120 shall consider the various kinds of cost-driving effects of covered greenhouse gas emissions,  
121 including effects on public health, natural resources, biodiversity, agriculture, economic  
122 development, flood preparedness and safety, housing, and any other effect that the department  
123 determines is relevant to making such a total cost determination.

124 (2) The climate cost study shall also provide a reasonable estimate of the costs that have  
125 been incurred and are expected to be incurred by the commonwealth through December 31, 2045  
126 to avoid, moderate, repair, or adapt to negative impacts of climate change, including potential  
127 qualifying expenditures under this chapter, as reasonable responses to the emission of  
128 greenhouse gases.

129 (3) The climate cost study shall estimate how much of the above total costs at (c)(1) and  
130 (c)(2) are attributable to the emission of greenhouse gases arising from the extraction of fossil  
131 fuels during the covered period. That estimation shall include consideration of the relative  
132 impact on climate change of covered fossil fuel emissions versus other sources of emissions of  
133 greenhouse gases, including non-anthropogenic sources.

134 (4) The climate cost study shall then multiply by eighty per cent the total cost number  
135 determined through (c)(3) above.

136 (5) The department shall periodically update the climate cost study not less frequently  
137 than every two years, through January 1, 2046.

138 (d) A responsible party shall be strictly liable, without regard to fault, for a share of the  
139 total costs determined by the most recent version of the climate cost study.



140 (1) Within 90 days of the effective date of this Act, the department shall determine and  
141 publish a list of responsible parties on its internet website. The agency may update the list from  
142 time to time, as appropriate.

143 (2) Within 60 days of the completion of the initial climate cost study, the agency shall  
144 determine and assess a cost recovery demand for each responsible party.

145 (3) Within 60 days of an update of the climate cost study, the agency shall update and  
146 adjust, as necessary, a cost recovery demand made pursuant to subdivision (d)(2). If an update to  
147 the climate cost study results in an adjustment of a responsible party's cost recovery demand, the  
148 department shall issue a revised written notice of cost recovery demand notifying the responsible  
149 party of the adjusted payment.

150 (e) The department shall determine the amount of the cost recovery demand for each  
151 responsible party by doing all of the following:

152 (1) Determine the total amount of covered emissions, based on (A) publicly available  
153 data on the operations and production of the fossil fuel industry and (B) a scientifically peer-  
154 reviewed methodology for determining emissions factors for greenhouse gas inventories.

155 (2) Determine the total amount of covered emissions attributable to each responsible  
156 party, using the same data and methodology used for (e)(1).

157 (3) Subtract one billion metric tons from each quantity determined through (e)(2) above;  
158 that amount shall be known as the responsible party's adjusted emissions amount.

159 (4) Calculate the total of all adjusted emissions amounts determined at (e)(3).

160 (5) Calculate the ratio of each responsible party's adjusted emissions amount to the total  
161 of all adjusted emissions amounts determined at (e)(4), to determine each responsible party's  
162 liability percentage.

163 (6) Calculate the ratio of the total amount calculated at (e)(4) to the total amount  
164 determined at (e)(1).

165 (7) Multiply that ratio by the dollar number determined at (c)(4), to determine the total  
166 recoverable amount.

167 (8) Multiply the total recoverable amount calculated at (e)(7) by each responsible party's  
168 liability percentage determined at (e)(5), to determine the amount of the cost recovery demand to  
169 be issued to each responsible party.

170 (f) Where a responsible party owns a minority interest in another covered entity of ten per  
171 cent or more, the calculation of the responsible party's applicable share of greenhouse gas  
172 emissions taken into account under this section shall include the applicable share of greenhouse  
173 gas emissions taken into account under this section by the covered entity in which the  
174 responsible party holds a minority interest, multiplied by the percentage of the minority interest  
175 held.

176 (g) For purposes of this article, entities in a controlled group are treated as a single entity  
177 for purposes of meeting the definition of responsible party and are jointly and severally liable for  
178 payment of any cost recovery demand owed by any entity in the controlled group.

179 (h) The department shall issue a written notice of cost recovery demand notifying each  
180 responsible party of its cost recovery demand.

181 (i) Payment of a cost recovery demand shall be made in full on the applicable payment  
182 date unless a responsible party elects to pay in installments pursuant to subsection (j) of this  
183 subdivision.

184 (j) A responsible party may elect to pay the cost recovery demand amount in twenty-four  
185 annual installments, ten per cent of the total due in the first installment and the balance to be paid  
186 in equal installments over the remaining years. If an election is made under this paragraph, the  
187 first installment shall be paid on the applicable payment date and each subsequent installment  
188 shall be paid on the same date as the applicable payment date in each succeeding year.

189 (k) A responsible party aggrieved by a final decision of the department under this act may  
190 seek relief consistent with chapter 30A.

191 (l) If there is any addition to the original amount of the cost recovery demand for failure  
192 to timely pay any installment required under this subdivision, a liquidation or sale of  
193 substantially all the assets of the responsible party, including in a proceeding under u.s. code:  
194 title 11 or similar case, a cessation of business by the responsible party, or any similar  
195 circumstance, then the unpaid balance of all remaining installments shall be due on the date of  
196 such event, or in the case of a proceeding under u.s. code: title 11 or similar case, on the day  
197 before the petition is filed. The preceding sentence shall not apply to the sale of substantially all  
198 of the assets of a responsible party to a buyer if such buyer enters into an agreement with the  
199 department under which such buyer is liable for the remaining installments due under this  
200 subdivision in the same manner as if such buyer were the responsible party.

201 (m) Within one year of the effective date of this article, the department shall promulgate  
202 such regulations as are necessary to carry out this article, including but not limited to procedures  
203 for:

204 (1) Determining responsible parties and their applicable share of covered greenhouse gas  
205 emissions consistent with the provisions of this article;

206 (2) Registering entities that are responsible parties under the program;

207 (3) Issuing notices of cost recovery demand to responsible parties informing them of the  
208 cost recovery demand amount; how and where cost recovery demands can be paid; the potential  
209 consequences of nonpayment and late payment; and information regarding their rights to contest  
210 an assessment;

211 (4) Accepting payments from, pursuing collection efforts against, and negotiating  
212 settlements with responsible parties; and

213 (5) Identifying and selecting climate change adaptation projects eligible to receive  
214 qualifying expenditures, including legislative budget appropriations, issuance of requests for  
215 proposals from localities and not-for-profit and community organizations, grants to private  
216 individuals, or other methods as determined by the department, and for allocating moneys from  
217 the fund for qualifying expenditures. When considering projects intended to stabilize tidal  
218 shorelines, the department shall encourage using nature-based solutions. Total qualifying  
219 expenditures shall be allocated in such a way as to ensure at least forty per cent of the qualified  
220 expenditures from the program shall go to climate change adaptation projects that benefit  
221 environmental justice populations.

222 (n) Within two years of the effective date of this article, the department shall complete a  
223 statewide climate change adaptation master plan for the purpose of guiding the dispersal of funds  
224 in a timely, efficient, and equitable manner to all regions of the state in accordance with the  
225 provisions of this chapter. In completing such plan, the department shall:

226 (1) Collaborate with the secretary of state, department of housing and community  
227 development, the department of agriculture, the department of energy resources, the department  
228 of public utilities, and the Office of Environmental Justice and Equity.

229 (2) Assess the adaptation needs and vulnerabilities of various areas vital to the state's  
230 economy, normal functioning, and the health and well-being of residents, including but not  
231 limited to: agriculture, biodiversity, ecosystem services, education, finance, healthcare,  
232 manufacturing, housing and real estate, retail, tourism (including state and municipal parks),  
233 transportation, and municipal and local government.

234 (3) Identify major potential, proposed, and ongoing climate change adaptation projects  
235 throughout the state;

236 (4) Identify opportunities for alignment with existing federal, state, and local funding  
237 streams;

238 (5) Consult with stakeholders, including local governments, businesses, environmental  
239 advocates, relevant subject area experts, and representatives of environmental justice  
240 communities and of relevant labor organizations;

241 (6) Provide opportunities for public engagement in all regions of the state.

242 (o) The department and the attorney general are hereby authorized to enforce the  
243 provisions of this article and to assess penalties for late payment of the cost recovery demands or  
244 the initial assessment. The late penalty shall accrue daily, assessed at the rate of 10 per cent per  
245 annum on the amount remaining due.

246 (p) Moneys received from cost recovery demands shall be deposited in the climate  
247 change adaptation superfund.

248 (q) Projects funded pursuant to this article shall require compliance with prevailing wage  
249 requirements pursuant to chapter 149.

250 (r) Any state entity or municipality receiving at least twenty-five million dollars  
251 (\$25,000,000) from funds allocated pursuant to this article for a project costing greater than fifty  
252 million dollars (\$50,000,000) may require use of apprenticeship agreements.

253 (s) Any state entity or municipality receiving at least twenty-five million dollars  
254 (\$25,000,000) from funds allocated pursuant to this article for a project which involves the  
255 construction, reconstruction, alteration, maintenance, moving, demolition, excavation,  
256 development or other improvement of any building, structure or land, shall be subject to chapter  
257 149..

258 (t)(1) Any municipality or state entity, or a third party acting on behalf and for the benefit  
259 of the municipality or state entity, in each contract for construction, reconstruction, alteration,  
260 repair, improvement or maintenance of a project receiving funds under this article that is a public  
261 work, shall ensure that such contract contains a provision that the structural iron and structural  
262 steel used or supplied in the performance of the contract or any subcontract thereto and that is  
263 permanently incorporated into the public work, shall be produced or made in whole or

264 substantial part in the United States, its territories or possessions. In the case of a structural iron  
265 or structural steel product, all manufacturing must take place in the United States, from the initial  
266 melting stage through the application of coatings, except metallurgical processes involving the  
267 refinement of steel additives. For the purposes of this subdivision, "permanently incorporated"  
268 shall mean an iron or steel product that is required to remain in place at the end of the project  
269 contract, in a fixed location, affixed to the public work to which it was incorporated. Iron and  
270 steel products that are capable of being moved from one location to another are not permanently  
271 incorporated into a public work.

272 (2) The provisions of the first paragraph of this subdivision shall not apply if the head of  
273 the department, agency, or municipal entity constructing the public work, in his or her sole  
274 discretion, determines that the provisions would not be in the public interest, would result in  
275 unreasonable costs, or that obtaining such steel or iron in the United States would increase the  
276 cost of the contract by an unreasonable amount, or such iron or steel, including without  
277 limitation structural iron and structural steel, cannot be produced or made in the United States in  
278 sufficient and reasonably available quantities and of satisfactory quality.

279 (u)(1) The department shall conduct an independent evaluation of the climate change  
280 adaptation cost recovery program. The purpose of this evaluation is to determine the  
281 effectiveness of and recommend improvements to the program in achieving its purposes.

282 (2) Such evaluation shall be provided to the governor, the temporary president of the  
283 senate and the speaker of the assembly on or before January first of the second calendar year  
284 following the year in which this article is enacted into law, and annually on or before September  
285 thirtieth thereafter.

286 Section 3. Climate Change Adaptation Fund.

287 (a) There is hereby established within the department a special revolving fund to be  
288 known as the "climate change adaptation fund" for the purpose of receiving moneys through cost  
289 recovery demands and issuing funds for qualifying expenditures pursuant to the climate change  
290 adaptation cost recovery program.

291 (b) No monies shall be expended from the fund for any project except qualifying  
292 expenditures pursuant to the program, including their operation and maintenance, as well as  
293 reasonable costs incurred by the department for administering the program, including .

294 Section 4. Applicability of Chapter

295 (a) Nothing in this act shall be deemed to preclude the pursuit of a civil action or other  
296 remedy by any person. The remedies provided in this act are in addition to those provided by  
297 existing statutory or common law.

298 (b) This act does not preempt, supersede, or displace any state law or local ordinance,  
299 regulation, policy, or program that does any of the following: (i) limit, set, or enforce standards  
300 for emissions of greenhouse gases; (ii) monitor, report, or keep records of emissions of  
301 greenhouse gases; (iii) collect revenue through fees or levy taxes; or (iv) conduct or support  
302 investigations.

303 (c) If any word, phrase, clause, sentence, paragraph, section, or part of this act shall be  
304 adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,  
305 impair, or invalidate the remainder thereof, but shall be confined in its operation to the word,



306 phrase, clause, sentence, paragraph, section, or part thereof directly involved in the controversy  
307 in which such judgment shall have been rendered.