



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB4773

by Rep. Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.1038 new

Creates the Climate Change Superfund Act. Creates the Illinois Climate Change Superfund as a special fund in the State treasury. Requires at least 40% of the Fund to be spent on projects that directly benefit disadvantaged communities facing climate change impacts. Directs the Environmental Protection Agency to adopt rules within one year, including regarding the apportionment of liability for climate change for payments into the Fund by responsible parties, regarding qualifying expenditures from the Fund, and regarding an Illinois Climate Change Superfund Program. Requires the Agency to establish procedures to challenge its determinations of liability for climate change and provides for judicial review under the Administrative Review Law. Makes findings. Defines terms. Provides that the Act is severable. Makes conforming changes to the State Finance Act.

LRB104 17641 BDA 31072 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Climate Change Superfund Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) Climate alteration poses an extreme threat to the  
8 public health, safety, and general welfare in the State.  
9 Fossil fuels are by far the largest contributors to climate  
10 change. The State must take action to adapt to the impacts of  
11 climate change, including impacts from increasing  
12 temperatures, extreme weather events, flooding, drought,  
13 fragmenting ecosystems, disappearing native biodiversity,  
14 exacerbated respiratory illnesses, damaged agricultural  
15 outputs, and other climate-change-driven threats.

16 (2) Adaptation needs include, but are not limited to,  
17 improving and expanding local flood control infrastructure to  
18 reduce the impact of severe rainfall that is increasingly  
19 common across Illinois; installing infrastructure in cities to  
20 reduce severe urban heat events; building cooling facilities  
21 in communities and on farms for livestock; upgrading drinking  
22 water facilities and monitoring equipment to account for  
23 changes in groundwater availability and quality; restoring and

1 maintaining wetlands, grasslands, and other native ecosystems  
2 to manage distortions in biodiversity; and distributing water,  
3 medical resources, and other public health necessities in  
4 large urban and isolated rural communities affected by climate  
5 disasters.

6 (3) Scientific analyses attribute more than 70% of  
7 post-1988 global greenhouse gas emissions to the world's 100  
8 largest fossil fuel companies, underscoring their elevated  
9 responsibility.

10 (4) Based on decades of research, it is now possible to  
11 determine specific fossil fuel producing companies' share of  
12 responsibility for greenhouse gases released into the  
13 atmosphere over the last 50 years or more, making it possible  
14 to assign liability to and require compensation from companies  
15 commensurate with the emissions attributable to their fossil  
16 fuel production during a given time period.

17 (5) This Act establishes a climate change adaptation cost  
18 recovery program that will require large fossil fuel  
19 producers, which have contributed significantly to the buildup  
20 of greenhouse gases in the atmosphere, to bear a proportionate  
21 share of the cost of infrastructure investments and other  
22 expenses necessary for adaptation to the impacts of climate  
23 change in Illinois. Large fossil fuel producers are readily  
24 identifiable and economically well positioned to contribute to  
25 the Illinois Climate Change Superfund.

26 (6) The obligation to pay under the program will be based

1 on the producers' historic contributions to the accumulation  
2 of the greenhouse gases that fuel climate change. The program  
3 operates under a standard of strict liability because the  
4 challenge associated with adapting to climate change presents  
5 onerous costs that would otherwise be unfairly shouldered  
6 predominantly by the State and its taxpayers. Responsible  
7 parties, as defined in this Act, will be required to pay into  
8 the Fund because their fossil fuel extraction and refining  
9 played a significant role in causing the climate pollution  
10 that now requires significant adaptation investments. This Act  
11 is remedial in nature and is not punitive, seeking  
12 compensation to address costs resulting from the past actions  
13 of polluters. No finding of wrongdoing is required.

14 (7) The program will cover emissions associated with the  
15 responsible parties' fossil fuel production from 2000 through  
16 2024, a period during which the science of climate change was  
17 well established, including the role of fossil fuels, and  
18 robust data exist to allocate proportional responsibility.

19 Section 10. Definitions.

20 "Agency" means the Illinois Environmental Protection  
21 Agency.

22 "Annual payment date" means the date, as determined by the  
23 Agency, by which a responsible party shall pay its cost  
24 recovery demand.

25 "Cost recovery demand" means a charge assessed against a

1 responsible party for cost recovery payments, as determined  
2 under Section 20.

3 "Costs" means direct and indirect costs in  
4 inflation-adjusted dollars to State, local, and tribal  
5 governments and Illinois residents incurred and projected to  
6 be incurred in the future to prepare for, prevent, adapt, or  
7 respond to the damages and harms associated with the impacts  
8 of covered fossil fuel emissions.

9 "Covered fossil fuel emissions" means, with respect to any  
10 entity, the total quantity of greenhouse gases released into  
11 the atmosphere at any time resulting from the use of fossil  
12 fuels or petroleum products extracted or refined by such  
13 entity during the covered period, expressed in metric tons of  
14 carbon dioxide equivalent, including, but not limited to,  
15 releases of greenhouse gases.

16 "Covered period" means the period that began January 1,  
17 2000 and ended December 31, 2024.

18 "Fossil fuel" means coal, crude oil, petroleum products,  
19 or fuel gases, or their byproducts.

20 "Fuel gas" includes, but is not limited to, methane,  
21 natural gas, liquefied natural gas, and manufactured fuel gas.

22 "Fund" means the Illinois Climate Change Superfund  
23 established under Section 15.

24 "Greenhouse gas" means carbon dioxide, methane, nitrous  
25 oxide, hydrofluorocarbons, perfluorocarbons, sulfur  
26 hexafluoride, and any other substance emitted into the air

1 that may be reasonably anticipated to cause or contribute to  
2 anthropogenic climate change.

3 "Notice of cost recovery demand" means a written or  
4 electronic communication informing a responsible party of the  
5 amount of cost recovery demand due, payable to the Fund.

6 "Petroleum products" means a liquid hydrocarbon at  
7 atmospheric temperature and pressure that is the product of  
8 the fractionation, distillation, or other refining or  
9 processing of crude oil and that is used as, usable as, or may  
10 be refined as, a fuel or fuel blendstock, including, but not  
11 limited to, gasoline, diesel fuel, aviation fuel, bunker fuel,  
12 and renewable fuels containing more than 5% petroleum  
13 products.

14 "Program" means the Illinois Climate Change Superfund  
15 Program established under Section 25.

16 "Qualifying expenditures" means expenditures for projects  
17 and programs within the State in support of climate change  
18 adaptation, including operational and maintenance expenses,  
19 and including both new projects and enhancement of existing  
20 facilities, infrastructure, or other projects to adapt to the  
21 existing and projected impacts from covered fossil fuel  
22 emissions. "Qualifying expenditures" includes, but is not  
23 limited to:

24 (1) expenditures for projects and programs that adapt  
25 to climate change and climate change's impacts to State,  
26 local, and tribal governments and Illinois residents, such

- 1 as through building and infrastructure resilience;
- 2 (2) climate-resilient housing;
- 3 (3) green infrastructure enhancements to counter heat  
4 island effects;
- 5 (4) relocation expenses for residents displaced by  
6 acute weather phenomena or long-term changes in local  
7 environmental conditions;
- 8 (5) water management infrastructure, such as water  
9 mains, stormwater systems, and sewers;
- 10 (6) emergency response systems for water distribution  
11 and emergency cooling stations;
- 12 (7) improvements to agricultural facilities to improve  
13 crop and livestock durability to extreme weather; and
- 14 (8) ecosystem restoration and maintenance on public  
15 lands.

16 "Qualifying expenditures" also includes reasonable  
17 expenses associated with the administration of the Fund.  
18 "Qualifying expenditures" shall be construed broadly and shall  
19 include projects or programs that address climate change as a  
20 contributing, even if not sole, factor for adaptation needs.  
21 However, all qualifying expenditures must have a rational  
22 nexus to localized impacts attributable in part to climate  
23 change, and they must serve the goals identified in Section 5.

24 "Responsible party" means an entity (or a successor in  
25 interest to such entity) that, during any part of the covered  
26 period, was engaged in the trade or business of extracting

1 fossil fuel or refining crude oil and is determined by the  
2 Agency to be responsible for more than one billion tons of  
3 covered fossil fuel emissions. "Responsible party" does not  
4 include any person who lacks sufficient connection with the  
5 State to satisfy the nexus requirements of the United States  
6 Constitution.

7 Section 15. Fund; report.

8 (a) The Illinois Climate Change Superfund is hereby  
9 created as a special fund in the State treasury.

10 (b) Moneys in the Fund shall, subject to appropriation, be  
11 used to implement the program under Section 25 and rules  
12 adopted under Section 25, including qualifying expenditures,  
13 and to reimburse any outstanding loan made from other funds  
14 used to finance the initial costs of the Agency's activities  
15 in implementing this Act. Moneys in the Fund shall not be  
16 expended for any purposes not specified in this Act or rules  
17 adopted under this Act.

18 (c) Moneys collected under Section 20 and rules adopted  
19 under Section 20 shall be deposited into the Fund.

20 (d) Moneys in the Fund shall be expended on qualifying  
21 expenditures in accordance with rules adopted by the Agency  
22 under Section 25.

23 (e) Not less than 40% of the moneys must be expended for  
24 projects and programs that directly benefit disadvantaged  
25 communities, as defined by the Agency, facing climate change

1 impacts.

2 (f) The Agency shall prepare and submit a report to the  
3 General Assembly within 6 months of the effective date of this  
4 Act to make recommendations regarding the size of the Fund  
5 under this Section, following consideration of data analyzing  
6 the costs to the State, including adaptation needs, from  
7 fossil fuel production by responsible parties.

8 Section 20. Apportionment of liability.

9 (a) Within one year of the effective date of this Act, the  
10 Agency shall adopt rules for, at a minimum, the following  
11 purposes, subject to the express conditions described in this  
12 Section:

13 (1) adopting methodologies to identify responsible  
14 parties and their applicable share of covered fossil fuel  
15 emissions consistent with the provisions of this Act;

16 (2) registering entities that are responsible parties  
17 under the Act;

18 (3) issuing notices of cost recovery demand to  
19 responsible parties informing them of the cost recovery  
20 demand amount, the method and location for payment of cost  
21 recovery demands, the potential consequences of nonpayment  
22 and late payment, and information regarding the rights of  
23 parties to contest an assessment, with the following  
24 requirements:

25 (A) with respect to each responsible party, the

1 cost recovery demand shall be equal to an amount that  
2 bears the same ratio to the Fund's overall size as the  
3 responsible party's applicable share of covered fossil  
4 fuel emissions bears to the aggregate applicable  
5 shares of covered fossil fuel emissions of all  
6 responsible parties;

7 (B) the applicable share of covered fossil fuel  
8 emissions taken into account under this Section for  
9 any responsible party shall be the amount of covered  
10 fossil fuel emissions attributable to such responsible  
11 party; and

12 (C) if an entity owns a minority interest in  
13 another entity of 10% or more, the calculation of the  
14 entity's applicable share of covered fossil fuel  
15 emissions taken into account under this Section shall  
16 include the applicable share of covered fossil fuel  
17 emissions taken into account under this Section by the  
18 entity in which the responsible party holds a minority  
19 interest, multiplied by the percentage of the minority  
20 interest held;

21 (4) accepting payments from, pursuing collection  
22 efforts against, and negotiating settlements with  
23 responsible parties, with the following requirements:

24 (A) payments may be made in annual installments  
25 over the course of 5 years;

26 (B) each annual installment under subparagraph (A)

1 must be equal, and, at a minimum, 20% of the amount  
2 contained in the notice of cost recovery demand,  
3 unless the responsible party has paid more than 80% of  
4 that amount in previous installments; and

5 (C) for the annual installments under subparagraph  
6 (A), a responsible party may opt to pay more than 20%  
7 of the amount contained in the notice of cost recovery  
8 demand at any time; and

9 (5) adopting procedures for identifying and selecting  
10 projects and programs eligible to receive qualifying  
11 expenditures, issuance of requests for proposals from  
12 localities and not-for-profit and community organizations,  
13 grants to private individuals, or other methods as  
14 determined by the Agency, and for disbursing moneys from  
15 the Fund for qualifying expenditures.

16 (b) The Agency shall hold at least 2 public hearings, one  
17 in-person and one virtual, on proposed rules under this Act.

18 (c) Within 6 months of adopting the rules under this Act,  
19 the Agency shall serve notices of cost recovery demand on each  
20 responsible party.

21 (d) In determining the amount of covered fossil fuel  
22 emissions attributable to any entity, the Agency shall use the  
23 U.S. Environmental Protection Agency's Emissions Factors for  
24 Greenhouse Gas Inventories as applied to the fossil fuel  
25 volume data, as those factors existed on December 31, 2024.  
26 Additionally:

1           (1) In determining the amount of greenhouse gas  
2 emissions attributable to any entity, the Agency may:

3           (A) require an entity to provide information to  
4 the Agency related to past practices, production,  
5 extraction, refining, emissions, or other historical  
6 information about the entity necessary or appropriate  
7 to enable the Agency to determine whether such entity  
8 is a responsible party and, if so, the amount of such  
9 responsible party's covered fossil fuel emissions; and

10           (B) use any pertinent financial information  
11 provided by the entity to the Department of Revenue or  
12 the United States Department of the Treasury.

13           (e) Each responsible party shall be strictly liable to the  
14 State of Illinois for the amount contained in its notice of  
15 cost recovery demand. Each responsible party shall make  
16 compensatory payments to the State of Illinois.

17           (f) The amounts listed in the notice of cost recovery  
18 demand shall accrue interest at a rate equal to the rate of  
19 inflation for each fiscal year, as measured by the Consumer  
20 Price Index for All Urban Consumers as published by the United  
21 States Department of Labor for the previous year.

22           (g) The unpaid balance of all remaining installments shall  
23 become due immediately if any of the following occurs:

24           (1) the responsible party fails to pay any installment  
25 by the due date under this Act;

26           (2) there is a liquidation or sale of substantially

1 all the assets of the responsible party; or

2 (3) the responsible party ceases to do business.

3 (h) Payment of the cost recovery demand may be stayed by  
4 the Agency or a court pending administrative or judicial  
5 resolution, as applicable, of a challenge filed under Section  
6 30. While a cost recovery demand is stayed, it will continue to  
7 accrue interest.

8 (i) Liability under this Act is retroactive for the  
9 covered period.

10 (j) The Agency, the Department of Revenue, and the  
11 Attorney General are hereby authorized to implement and  
12 enforce the provisions of this Act.

13 Section 25. Illinois Climate Change Superfund Program;  
14 projects to be funded; criteria for eligible projects; rules.  
15 Within one year of the effective date of this Act, the Agency  
16 shall adopt rules to implement and administer this Act,  
17 including to establish an Illinois Climate Change Superfund  
18 Program that creates a procedure for acceptance,  
19 consideration, and enactment of proposals from the public for  
20 qualifying expenditures throughout the State of Illinois. The  
21 Agency shall consider submissions from the public and evaluate  
22 those submissions based on their eligibility for funding under  
23 the program and their potential to assist with addressing the  
24 health, safety, and general welfare challenges posed by  
25 climate change in Illinois.

1 Section 30. Appeals process.

2 (a) The Agency shall establish procedures for an entity to  
3 challenge its designation as a responsible party under this  
4 Act or the amount of its liability relative to other entities,  
5 as determined by reference to its overall fiscal year 2025  
6 profits.

7 (b) A request for reconsideration shall state the grounds  
8 for the request and include supporting documentation. The  
9 Agency shall issue a subsequent notice of cost recovery demand  
10 or a retraction. It shall be within the Agency's sole  
11 discretion to determine whether a further administrative  
12 appellate process will be provided. If no further  
13 administrative appellate process is provided, the Agency's  
14 subsequent notice of cost recovery demand or retraction shall  
15 constitute final agency action.

16 (c) A responsible party may seek judicial review of a  
17 determination made by the Agency under this Section under the  
18 Administrative Review Law.

19 (d) A responsible party may not seek judicial review of  
20 its liability or of any other determination made by the Agency  
21 under this Act under the Administrative Review Law unless it  
22 has first exhausted all administrative review opportunities  
23 before the Agency.

24 Section 35. Miscellaneous provisions. This Act does not

1 regulate emissions or restrict responsible parties from future  
2 extraction, production, refining, combustion, or sale of  
3 fossil fuels, and does not seek to punish responsible parties.

4 Section 40. State preemption. This Act does not:

5 (1) relieve the liability of an entity for damages  
6 resulting from climate change, as provided by law;

7 (2) abrogate the authority of home rule jurisdictions  
8 to tax, fine, restrict, or otherwise regulate activities  
9 of responsible parties, to the extent otherwise permitted  
10 by existing State and federal law;

11 (3) preempt, displace, or restrict any rights or  
12 remedies of a person, the State of Illinois, states other  
13 than Illinois, units of local government within or outside  
14 Illinois, or tribal governments under law relating to a  
15 past, present, or future allegation of any of the  
16 following:

17 (A) deception concerning the effects of fossil  
18 fuels on climate change;

19 (B) damage or injury resulting from the role of  
20 fossil fuels in contributing to climate change; or

21 (C) failure to avoid damage or injury related to  
22 climate change, including claims for nuisance,  
23 trespass, battery, design defect, negligence, failure  
24 to warn, or deceptive or unfair practices and claims  
25 for injunctive, declaratory, monetary, or other

1 relief; or

2 (4) preempt or supersede any State law or rule or  
3 local ordinance, regulation, policy, or program,  
4 including, but not limited to, those that do any of the  
5 following:

6 (A) limit, set, or enforce standards for emissions  
7 of greenhouse gases;

8 (B) monitor, report, or keep records of emissions  
9 of greenhouse gases;

10 (C) collect revenue through fees or levy taxes; or

11 (D) conduct or support investigations.

12 Section 97. Severability. The provisions of this Act are  
13 severable under Section 1.31 of the Statute on Statutes.

14 Section 900. The State Finance Act is amended by adding  
15 Section 5.1038 as follows:

16 (30 ILCS 105/5.1038 new)

17 Sec. 5.1038. The Illinois Climate Change Superfund.