

SB149 - RENEW Act - Testimony.pdf

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Position: FAV

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 Temple Isaiah
 Zionist Organization of America
 Baltimore District

Written Testimony
Senate Bill 149 - Responding to Emergency Needs From Extreme Weather
(RENEW) Act of 2025
Education, Energy, and the Environment Committee – February 13, 2025
Support

Background: Senate Bill 149 would establish the Climate Change Adaptation and Mitigation Payment Program in the Department of the Environment to secure payments from certain businesses that extract fossil fuels or refine petroleum products in order to provide a source of revenue for State efforts to adapt to and mitigate the effects of climate change and to address the health impacts of climate change on vulnerable populations; establish the Climate Change Adaptation and Mitigation Fund to support efforts to mitigate the effects of climate change.

Written Comments: The Jewish concept of *tikkun olam* means to repair the world in which we live. As the advocacy arm of The Associated: Jewish Federation of Baltimore, we represent organizations that work to educate the community on sustainability and make strides towards repairing the world.

Maryland is facing a structural deficit, and the reality is that Maryland taxpayers are footing the bill for climate change. The goal of The RENEW Act is to bring in billions of new dollars to Maryland to help balance the budget and invest in climate solutions. These investments will pay dividends and ensure we stay on track to meet our climate mandates. Overburdened and underserved communities, including elderly populations, the underinsured, children, etc. are the most vulnerable to climate change impacts and extreme weather events. We, as a State, cannot continue to leave these vulnerable communities behind without dedicating specific funding to our ambitious, forward-thinking climate change mitigation, and adaptation programs in the state.

The RENEW Act takes this financial burden off of taxpayers and puts it squarely on the shoulders of the largest, most polluting international fossil fuel companies. It supports critical investments in programs that will provide necessary funding for health, infrastructure, equity, and urgent climate change mitigation and adaptation projects.

For these reasons, the Baltimore Jewish Councils asks for a favorable report on SB149.

The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.

SB0149_Nature Forward_Testimony in Support of Rene

Uploaded by: Angie McCarthy

Position: FAV

Testimony for SB0149
Support for the Responding to Emergency Needs From
Extreme Weather (RENEW) Act of 2025

Bill Sponsor: Senator Hester
Committee: Education, Energy, and the Environment
Organization Submitting: Nature Forward
Person Submitting: Angie McCarthy, Maryland Conservation Advocate
Position: Favorable



I am submitting testimony on behalf of Nature Forward in strong support of the RENEW Act. Nature Forward (formerly Audubon Naturalist Society) is the oldest independent environmental organization protecting nature in the DC metro region, including Maryland's near counties of Montgomery and Prince Georges. Our mission is to inspire residents of Maryland and the Washington, DC, region to appreciate, understand, and protect their natural environment through outdoor experiences, education, and advocacy. We thank the Maryland legislators for the opportunity to provide testimony in support of the Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025.

Members of this Committee, and all Marylanders, know that climate change is not happening in a distant future – it is here. The time is now. The 2023 Climate Pollution Reduction Plan necessitated a \$1 billion annual investment in climate solutions in order to meet state climate goals, but did not commit a permanent funding mechanism.¹ The growing impact of climate change in Maryland is evident. Rising temperatures and shifting rainfall patterns are increasing the intensity of both floods and drought, sea level rise threatens our wetlands, and storm waters threaten our barrier islands. Saltwater is intruding into aquifers near the coast. We need to protect coastal communities, highways and rail lines, and essential communication, energy, and wastewater infrastructure.²

Key parts of Maryland's fishing and agriculture sectors are vulnerable to increases in acidity and lower oxygen levels in our waters.³ We are losing the wetlands that are crucial nurseries for fish and shellfish. Our vulnerable tidal marshes are important for food and shelter to animals ranging from the smallest insects to rockfish and striped bass to shore birds. They are home to great blue heron and bald eagles. They are also home to an incredibly rich history of the men and women who have worked on the Bay,

¹ [Maryland's Climate Pollution Reduction Plan](#)

² [Climate Change in Maryland](#)

³ Chesapeake Bay Program and [Climate Change](#).



and we cannot lose this natural resource that means so much.⁴ Human health is at risk as temperatures rise, particularly for our most vulnerable Marylanders.⁵

While Maryland has been trying to mitigate these impacts for years, a look at some of the most recent steps demonstrates the need to hold the polluters accountable. Governor Wes Moore proposed regulations to achieve 100% clean energy use by 2035 and net zero carbon emissions by 2045. He set a goal of achieving 8.5 gigawatts of wind power generation in the state by 2031 and introduced the Clean Transportation and Energy Act, which increases incentives for people and businesses looking to purchase electric vehicles and install charging stations. The Maryland Department of the Environment's plan to reduce Maryland's greenhouse gases by 60 percent includes rebates for purchasing electric vehicles, removing waste incinerators from the state's renewable energy portfolio, and installing electric heat pumps in residences. Maryland's administrative agencies are working to meet these goals.

These examples are the tip of the iceberg. Families, businesses, and agencies across the state are needing to take action to protect against climate change impacts that are *already here*.

These efforts are not cheap. RENEW gives our state a tool to hold the largest polluting companies accountable. It would establish the Climate Change Adaptation and Mitigation Payment Program and Fund in the Department of the Environment (MDE) to obtain one-time payments from the largest polluting companies – and require the funds be used to support State and local efforts to adapt to and mitigate the effects of climate change. It would protect Maryland's most vulnerable populations by requiring that at least 40% of Fund expenditures support projects that directly benefit communities most affected by climate impacts. At a time when environmental justice is under attack, we need to make sure that Maryland continues to protect its communities.

How do we know this will work? From experience. The idea of making polluters pay for their own harms is long-standing. The federal Superfund law (Comprehensive Environmental Response, Compensation and Liability Act) and program has cleaned up hundreds of toxic sites.⁶ The Fiscal Note for SB0149 indicates that cost recovery payment under SB0149 could provide Maryland with billions of dollars to combat climate change harms as early as FY 2028.

⁴ [Series: The Vince Leggett Legacy](#)

⁵ [What Climate Change Means for Maryland](#)

⁶ [Here's How We Know That Vermont's New Climate Law Will Work](#)



Companies that cause harm and derive benefits should help pay the costs of that harm. As Senator Van Hollen said, when introducing a similar bill in the United States Senate said:

“It’s time that the biggest companies fueling the climate crisis address the harm they have caused. This legislation puts a simple but very powerful principle into action: big polluters should pay to clean up the mess they have made, and those who have polluted the most should pay the most.”⁷

Two states, New York and Vermont, have already enacted similar laws, and several other states, including California and Massachusetts, have introduced similar measures.⁸

As Nature Forward, we support the community forward, compensatory justice approach of this bill. RENEW can provide funds to help Marylanders mitigate climate change harms and meet its environmental goals. We, and our membership of over 30,000, believe Maryland should be a leader in bringing the costs of climate change back to the polluters that benefited. We ask that you vote FAVORABLE on the RENEW Act.

Angie McCarthy
Maryland Conservation Advocate
Nature Forward

⁷ [In First Action of 119th Congress, Van Hollen Reintroduces Legislation to Make Polluters Pay for Fueling Climate Change](#)

⁸ [New York State To Make Polluters Pay For Climate Impacts | Food & Water Watch](#)
[Climate Superfund Law Enacted; Vermont Becomes First State to Hold Big Oil Financially Responsible for a Fair Share of Climate Damages](#)

SB0149_FAV_MedChi_RENEW Act of 2025.pdf

Uploaded by: Ashton DeLong

Position: FAV



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Senate Education, Energy, and the Environment Committee
Senate Finance Committee
February 13, 2025

Senate Bill 149 – *Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025*
POSITION: SUPPORT

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, supports Senate Bill 149.

Senate Bill 149 would establish the Climate Change Adaption and Mitigation Payment Program in the Department of the Environment to secure payment from certain businesses that extract fossil fuels or refine petroleum products in order to provide a source of revenue for State efforts to adapt to or mitigate the effects of climate change and to address the health impacts of climate change on vulnerable populations.

MedChi recognizes climate change as a public health issue. Fossil fuel production is associated with respiratory disease, heart disease and strokes, lung and other cancers, effects on brain function and children’s ability to learn, childhood asthma, and premature births and low birth weight. In addition, climate change causes extreme heat events, storms, flooding, droughts, and wildfires, resulting in deaths, injuries, and a myriad of serious diseases. Additionally, climate change disproportionately impacts certain groups due to historical and structural inequalities, including low-income communities, communities of color, immigrants, unsheltered people, certain indoor and outdoor workers, and others.

For these reasons, MedChi has resolved to support state legislation and regulations that move Maryland away from fossil fuel use to pollution-free, renewable energy. Taking such actions will help the State to reap immediate and ongoing health and equity benefits. The Climate Change Adaption and Mitigation Payment Program and the funding mechanisms established by the bill will help the State to mitigate the public health impacts of climate change. For these reasons, we support Senate Bill 149.

For more information call:

Ashton DeLong
General Counsel

ShoreRivers RENEW Act Testimony.docx.pdf

Uploaded by: Benjamin Ford

Position: FAV



SUPPORT for SB149

2/6/2025

Dear Chair Feldman and esteemed members of the Education, Energy, and Environment Committee,

On behalf of ShoreRivers, I am writing to express our **strong support for HB128, the Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025**. As a science-based advocacy and restoration organization dedicated to protecting and restoring the waterways of Maryland's Eastern Shore, we urge a favorable report on this critical legislation.

Extreme weather events are increasingly jeopardizing the health of our rivers, local economies, and the communities we serve. **The Eastern Shore of Maryland alone is losing more than 580 acres of land annually** to erosion exacerbated by mean sea level rise. Rising sea levels, saltwater intrusion, increased flooding, and more frequent and intense storms threaten the Chesapeake Bay watershed and impose mounting costs on Marylanders. Currently, these costs—totaling hundreds of millions of dollars statewide—are borne by taxpayers. **HB128 offers a fair and necessary solution by shifting this financial burden from Maryland families and businesses to the large, out-of-state fossil fuel companies that have played a primary role in driving climate change.**

The RENEW Act will:

- Require an analysis of climate-related costs impacting Maryland communities and ecosystems.
- Ensure that large fossil fuel companies—those responsible for over a billion tons of cumulative carbon emissions—contribute to the costs of climate adaptation in Maryland.
- Provide crucial funding for infrastructure improvements, flood mitigation, saltwater intrusion management, disaster preparedness, and public health protections—without increasing taxes or energy costs for Marylanders.
- Support investments in climate resilience, benefiting our local environment, schools, and public health systems.

As an organization committed to clean water, environmental justice, and community resilience, ShoreRivers recognizes that climate change directly affects our ability to achieve our mission. We have seen firsthand the devastating effects of rising waters, increased nutrient pollution from extreme rainfall, and damage to critical oyster and wetland restoration projects—challenges that will only intensify without immediate action.

States like New York and Vermont have already taken similar action, and others—including California, Minnesota, New Jersey, Virginia, and Massachusetts—are considering comparable policies. It is time for Maryland to lead in protecting its residents, environment, and economy from the escalating impacts of climate change.

ShoreRivers

Isabel Hardesty, Executive Director
Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper
Ben Ford, Miles Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

We urge the committee to issue a favorable finding for HB128 and ensure that those most responsible for climate change contribute to the solutions Maryland needs. Thank you for your leadership in addressing this urgent issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'B. Ford', with a horizontal line extending to the right.

Benjamin Ford, Miles-Wye Riverkeeper, on behalf of ShoreRivers

Testimony_SB149_CCAN_Baker.pdf

Uploaded by: Brittany Baker

Position: FAV



SB 149
RESPONDING TO EMERGENCY NEEDS FROM EXTREME WEATHER
(RENEW ACT)

**TESTIMONY OF BRITTANY BAKER, MARYLAND POLICY DIRECTOR AT THE
CHESAPEAKE CLIMATE ACTION NETWORK**

Chair Feldman, Vice Chair Kagan, and Members of the Senate Education, Energy, and the Environment Committee and the Finance Committee,

We cannot ignore the fact that the effects of climate change are increasing every day in Maryland.¹ Severe flooding, intense heat waves, drought, saltwater intrusion, and major storms pose a dangerous threat to the state. Right now, it is Maryland citizens who are paying the costs to deal with these extreme weather events. The RENEW Act provides a solution that protects residents from these escalating costs. The bill would bring in billions of dollars that will be used to prepare and respond to the escalating impacts of climate change.

The RENEW Act is a cost-shifting bill that is based on a simple premise: the public should not be financially responsible for the externalities of private companies.

There is broad public support for this policy. US Senator Van Hollen was the first to introduce this policy approach in Congress. New York state and Vermont have both passed similar legislation in the past year. California, Massachusetts, Minnesota, New Jersey, and Virginia are all considering similar legislation. 71% of Marylanders support the RENEW Act² and the bill has been endorsed by over 60 local organizations.

The updated bill language has three phases of implementation. First, Maryland agencies, the Comptroller's Office, and the State Treasurer will study the cost impacts of climate change in the state and quantify a total assessment for the largest, most polluting fossil fuel companies. Then, these companies would be notified of their proportional one-time assessment of the total fee required due to the cost quantification study. The largest, most polluting fossil fuel companies would be charged the highest portion of the total assessment. Smaller, less polluting companies would be charged less. Fossil fuel companies that did not emit over 1 billion tons of greenhouse gases between 1994-2023 would not be charged. All liable companies would be able to pay their fees in a one-time payment or in equal parts across 10 years.

Lastly, once the fees are collected, The Maryland Department of the Environment would lead the redistribution of these funds across the state via the newly established Climate Change Mitigation and Adaptation Fund. The qualified expenditures are outlined in the bill and cover a host of climate change

¹ <https://climateintegrity.org/uploads/media/CCI-Maryland-ImpactsAndCosts-2024.pdf>

² Based on the Maryland State Polling conducted by Gonzales Polls in January 2025.



issues areas. For example, these funds could be used for stormwater infrastructure upgrades in Prince George's County, wastewater treatment facility relocations in Kent County, extreme heat preparedness in Baltimore City, or flood mitigation in Howard County. State, local, and county projects would be eligible to receive investments from the fund. All of the projects would need to be resilience projects that increase the ability of Maryland to withstand the impacts of escalating climate instability. Further, forty percent of the funds would need to be invested in communities identified as overburdened and underserved by the Maryland Department of the Environment screening tool to ensure that funds are being equitably distributed across the state.

The most important aspect of this bill is that this one time assessment, on the small subset of fossil fuel companies who are the largest and most polluting, cannot be passed onto Maryland consumers. This is due to basic economic principles of profit maximization and the fact companies will only be able to incorporate the assessment as a one-time fixed cost.³

The RENEW Act is fiscally responsible, prudent, timely, and necessary to safeguard the most vulnerable people and regions of our state from escalating and costly impacts of a changing climate.

I respectfully request a favorable report on SB 149.

³ <https://policyintegrity.org/publications/detail/enacting-the-polluter-pays-principle>

RENEW testimony 2025 Senate.pdf

Uploaded by: Bryan Dunning

Position: FAV



February 11, 2025

**Testimony of Bryan Dunning
Senior Policy Analyst
Center for Progressive Reform**

**Before the Maryland Senate's Education, Energy and the Environment and Finance
Committees
Regarding Senate Bill SB0149: Responding to Emergency Needs From Extreme Weather
(RENEW) Act of 2025**

Dear Chair Feldman, Vice Chair Kagan, and members of the Education, Energy and the Environment, and Finance Committees. Thank you for the opportunity to testify today on behalf of the Center for Progressive Reform (the Center) in support of SB0149 (SB 149). The Center is a nonprofit research and advocacy organization that is focused on addressing our most pressing societal challenges, including advancing the concerns of historically marginalized communities by centering racial and economic justice in climate policy. For the reasons discussed in the testimony below, the Center requests that this committee issue a **favorable** report on SB 149.

Maryland now faces the impacts of anthropogenic climate change, which includes increasing instances of extreme storms, days of extreme heat and cold, and sea level rise which contribute to increased frequency of flooding, increasing urban-heat island effect, increased saltwater intrusion, and myriad public health impacts. This represents billions of dollars of investment the state must make to adapt its communities to be resilient enough to meet the threat, as well as increased costs borne by Marylanders in the form of medical bills, reduced work capacity, and adaptation efforts within their private residences. Importantly, in Maryland, as in other states, the communities most impacted by and/or susceptible to these climate-driven harms are often those least able to respond to them, including low-income communities, historically disadvantaged communities, and elderly populations on fixed income. It is critical that the Maryland Legislature take steps to ensure that these populations are protected.

Currently, the costs of climate adaptation in the state are to be borne by Maryland taxpayers, and the cost of responding to the climate crisis represents a significant burden on the state's finances at a time when the state faces a significant deficit. Absent legislation such as RENEW, the fossil fuel organizations who have driven the climate crisis, and who continue to reap record profits

year over year, will pass the costs of externalizing the combustion byproducts of fossil fuels onto the public.

The RENEW Act is narrowly targeted in its scope, aiming to recoup the costs of adaptation from approximately the 40 largest fossil fuel companies who have driven the climate crisis – holding them, in part, accountable for the costs they have externalized to the commons. Funds so collected through RENEW are earmarked for the Climate Change Adaptation and Mitigation Fund, which creates a dedicated funding source to ensure the state has the finances to, amongst numerous other crucial programs, address disaster mitigation and response, respond to salt-water intrusion along the Chesapeake Bay, address urban heat island effect either through promoting efficient cooling systems or through resilience hubs to ensure low to moderate income households have a place to shelter, as well as enact a number of other equity-driven programs to protect those most vulnerable to climate change.

RENEW also, specifically, does not preclude legal action against the polluting companies to hold them accountable for a variety of actions under civil law, or preempt, supersede, or displace state or local laws addressing the climate crisis. In short, the act provides a pathway, here and now, for Maryland to begin to hold these organizations accountable and ensure finances to address the climate crisis but does not preclude alternate means to seek redress from the climatic harms caused by these companies.

For these reasons, the Center respectfully requests a favorable report from these committees.

Sincerely,

Bryan Dunning
Senior Policy Analyst, the Center for Progressive Reform

SB0149_RENEW_Act_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0149
Responding to Emergency Needs From Extreme Weather (RENEW)
Act of 2025

Bill Sponsor: Senator Hester

Committee: Education, Energy, and the Environment

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0149 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

One of the biggest impediments to achieving our state greenhouse gas reduction goals and getting rid of fossil fuels is the price tag. No one wants to raise taxes and there are a lot of environmental and transportation projects that are already draining the funding we currently have.

Our members salute this bill, which takes revenue from the companies that caused the very problem that we are now desperate to solve. They have made, and continue to make, billions of dollars by selling fossil fuels and REFUSING to lead the way in transitioning off of them - hoping that by leaving funding for the transition to taxpayers, we will lose the will to transition. These big, international companies, none of whom are based in Maryland, would be precluded by this legislation from passing the costs of this program along to Marylanders. The funding mechanism specified in this bill would raise an estimated \$900 million a year for 10 years.

Funds received from fossil fuel companies would be used to support the purchase of grid scale batteries, low-income energy efficiency, flood mitigation, retrofitting homes with electric technology, funding for minority

health disparities and other programs. We could not think of a better way to fund our clean energy future than by having the dirty energy companies pay for it.

We support this bill and recommend a **FAVORABLE** report in committee.

Senator Chris Van Hollen Testimony on the Respon

Uploaded by: Chris Van Hollen

Position: FAV

Senator Chris Van Hollen Testimony on the Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Chair Feldman, Vice Chair Kagan, and members of the Education, Energy, and the Environment Committee, thank you for the opportunity to submit testimony on the Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025. There has never been a more urgent need to pass this important legislation into law. I want to thank Senator Katie Fry Hester and Delegate David Fraser-Hidalgo for their leadership on this legislation, and the work they have put in to making the RENEW Act of 2025 even stronger than the proposal put forward last year.

The Center for Climate Integrity estimates that it would cost Maryland \$27.4 billion by 2040 just to build seawalls to protect our coastal communities from sea level rise. It will take more to ensure a just transition to a clean energy economy, build resilient infrastructure across the state, and respond to more severe natural disasters.

The RENEW Act is a state-based approach to a proposal I have put forward at the federal level: the Polluters Pay Climate Fund Act. Both bills are based on a simple principle – that companies most responsible for causing the harms should bear the costs of repairing them, not the taxpayers. And that those who polluted the most should pay the most. It is modeled in some ways after the Superfund program for the cleanup of sites contaminated by hazardous materials.

Using peer-reviewed “carbon attribution” research, it is possible to definitively attribute carbon and methane in the atmosphere to specific companies like ExxonMobil, Chevron, and Shell. The RENEW Act uses this methodology to establish a Climate Change Adaptation and Mitigation Payment Program. The legislation tasks the State Treasurer with assessing the payments due from the highest-polluting companies based on their contribution to global emissions. Those funds will then be invested in clean energy and energy efficiency programs, climate-resilient infrastructure build-out, and other efforts that support climate change adaptation and mitigation – particularly in those communities most impacted by pollution and climate risk.

There are no Maryland companies among the major polluters covered by the RENEW Act. In addition, under economic principles accepted across the ideological spectrum, costs imposed on fossil fuel companies would not be passed on to consumers. The recovery payments are based on past, not current, activity, so they do not impact the ongoing costs of production. They are charged to those with the highest past production, leaving some companies who are not subject to recovery payments as price competitors and rivals for market share. Any attempts to collude to set a higher price would be illegal – and unlikely to attract companies who aren’t covered by the bill or have a lower pro-rata payment and a market-based incentive to undercut those who raise prices.

Importantly, the RENEW Act does not pre-empt any communities that are justly seeking damages from the fossil fuel industry. They remain entitled to their day in court.

The RENEW Act presents an opportunity to protect our communities, address environmental injustice, and transition to a clean energy future by ensuring the biggest polluters – not Maryland taxpayers – pay the cost.

I support this legislation and request that the Committee give it full consideration.

Takoma Park 2025 - SB 149 FAV - RENEW Act - Senate

Uploaded by: Cindy Dyballa

Position: FAV



CITY TAKOMA OF PARK MARYLAND

**Support Senate Bill 149 - Responding to Emergency Needs From Extreme Weather –
RENEW Act of 2025
Senate Education, Energy, and the Environment Committee
February 13, 2025**

The City of Takoma Park supports and urges favorable consideration of Senate Bill 149, which establishes a Climate Change Adaptation and Mitigation Fund. This fund will support state and local efforts to adapt to and/or mitigate the effects of climate change and to address the health impacts of climate change on vulnerable populations. The need for significant additional resources at the state and local levels to make our communities more resilient and to address the impacts of climate change is real, and it is urgent.

The City of Takoma Park is a densely developed municipality of about 18,000 residents that is 2.4 square miles in size and is located within Montgomery County. About half our residents are homeowners and half renters, with a wide range of incomes. In Takoma Park, as across the state, climate change has brought us heavy rains, strong winds, heat waves and storms which are becoming more frequent, more intense, more damaging, and more costly for both residents and local governments.

Our city is not alone in this. Older stormwater systems can no longer keep up with the heaviest rains, creating dangerous flooding conditions that affect city and State owned roads and public spaces. Temporary streams now form rapidly on a regular basis, causing road and property damage and creating safety hazards. Fallen trees, weakened by the effects of climate change, can have devastating results for roads, businesses, homes and vehicles, and leave communities without electricity for hours and sometimes days at a time. Our most vulnerable city residents, like residents across the state, also bear the brunt of climate change impacts with health impacts and higher energy cost burdens.

The City, along with the State and other communities statewide, does not have the resources to design and install the additional infrastructure and protections we need to stay safe, or to address damage of this magnitude, or to assist residents – especially lower income residents – to recovery from or help prevent such impact.

Despite all our efforts to mitigate the impacts of climate change, it is already here. We need to adapt, and rapidly. A recent City-sponsored stormwater resilience study by Low Impact Development Center estimated costs up to \$4.6 million for just the ten most necessary projects to address current flooding issues, beyond the City's already robust stormwater management program costs.

(over)

More resources are needed to address this pressing situation. Even in a fiscally challenging budget year, these funds must be provided somehow. The City supports the concept of a one-time payment by large fossil fuel companies to raise revenue for this needed infrastructure. This legislation would take important steps towards ensuring that the costs of climate change adaptation and mitigation are borne, at least in part, by the responsible parties.

This bill will help us meet our city, county and state greenhouse gas emission reduction goals. It also addressed climate-driven City infrastructure, housing, and environmental protection needs, as well as our City's equity goals and priorities. Our City climate action framework specifically addresses increased resiliency measure as well as greenhouse gas reductions.

In sum, the City of Takoma Park supports Senate Bill 149, and encourages a favorable committee vote.

City Contact: Talisha Searcy, Mayor
talishas@takomaparkmd.gov

SB149 RENEW Act Testimony DAC.pdf

Uploaded by: Debbie Cohn

Position: FAV

Committee: Senate Education, Energy, and the Environment Committee
Testimony on: SB149 - The Responding to Emergency Needs from Extreme Weather (RENEW) Act
Submitting: Deborah A. Cohn
Position: Favorable
Hearing Date: February 13, 2025

Dear Chair Feldman and Committee Members:

Thank you for allowing my testimony today in support of SB149. I have lived in Montgomery County since 1986.

Climate Change Economic Damage: The damages caused by climate change on current and subsequent generations of Marylanders is enormous. Global warming is causing more extreme weather events and economic damage, including intense rainstorms, droughts, salt water intrusion on farmland, rising sea levels leading to loss of land mass in Dorchester County and tidal flooding, erosion and storm surges in Dorchester, Wicomico, Somerset and Worcester Counties. From 2010 to 2020, Maryland experienced 31 extreme weather events costing the state up to \$10 billion in damages.¹

Costs of Adaptation: Right now, necessary adaptation measures are costing over \$50 million to upgrade the dock in Annapolis due to chronic flooding, \$228 million to combat flooding in Ellicott City, and \$950,000 annually to upgrade stormwater management systems to handle heavier rain storms in St. Mary's County. Buildings (including schools and residences) experience higher costs for air conditioning, businesses and outdoor workers lose money as a result of extreme heat, and extreme heat and pollution adversely impact the health of young children and older residents. No jurisdiction in Maryland is immune from significant costs to address the local impacts of climate change resulting from the impact of increased trapped greenhouse gas emissions on global warming.

Industry Climate Research, Knowledge of Impact of Fossil Fuels on Global Warming, and Intentional Obfuscation: The public did not become aware until the 1980's of the connection between combustion of fossil fuels and the greenhouse gas effect that warms the planet and leads to climate change. But oil executives appreciated the wide range of negative impacts of their products much earlier.² A 1954 American Petroleum Institute article³ suggested that the ground level ozone created through reaction involving sunlight, volatile organic compounds and nitrogen oxides that evaporate from cracked gasoline from oil refineries played a significant role in the formation of smog in Los Angeles. Indeed the fossil fuel companies conducted sophisticated climate science research, appreciating that carbon dioxide emissions were accumulating in the

¹ <https://www.whitehouse.gov/wp-content/uploads/2021/04/AJP-State-Fact-Sheet-MD.pdf>

² <https://news.harvard.edu/gazette/story/2023/01/harvard-led-analysis-finds-exxonmobil-internal-research-accurately-predicted-climate-change/>

³ Jenkins, V.N. (1954). The Petroleum Industry Sponsors Air Pollution Research. Air Repair, 3(3), 144-149. <https://dx.doi.org/10.1080/00966665.1954.10467615>.

atmosphere faster than natural processes were removing them, likely as a result of fossil fuel emissions.⁴ A report commissioned by the American Petroleum Institute in 1968 “warned that the rising carbon dioxide levels would result in increases in temperature at the Earth’s surface and that significant increases in temperature could have numerous consequences, including causing ice caps to melt, sea levels to rise and oceans to warm.”⁵ That report also projected that based on then current trends, atmospheric carbon dioxide levels could reach 400 parts per million (ppm) by 2000 and tapping *all of the then-known recoverable fossil fuel* could cause atmospheric concentrations of 830ppm.⁶ In 2024 atmospheric carbon dioxide measured at NOAA’s Mauna Loa Atmospheric Baseline Observatory surged to a seasonal peak of just under 427 ppm, the fifth largest annual growth in NOAA’s 50-year record.⁷ Rather than disclose some of its own research, oil industry executives for years engaged in obfuscation, casting doubt on the science they internally acknowledged was troublesome.

Importance of the RENEW Act: The RENEW Act directs the state to analyze and determine just how much these climate impacts are costing Maryland governments, businesses and individuals. SB149 would then require any company that has emitted more than a billion tons of greenhouse gas emissions cumulatively between 1994 and 2023 and sells its products in Maryland to collectively pay billions of dollars to help balance the budget and invest in climate solutions. This would apply to roughly 40 of the wealthiest companies. In 2022, those companies collectively made over \$500 billion in profits.

Maryland Not Alone. Maryland would not be the first state to take this “polluters pay” approach. New York State and Vermont have already passed this type of legislation and California, Minnesota, New Jersey, Virginia, and Massachusetts are also considering similar legislation. It is similar to federal legislation [reintroduced](#) by our own Senator Chris Van Hollen in the current Congress. And this polluters pay approach is supported by most Marylanders.⁸

Maryland residents and governments cannot afford to shoulder all the costs to mitigate fossil fuel induced global warming and climate change. We must make polluters pay. The RENEW Act achieves that central goal.

Accordingly, I urge this Committee to issue a FAVORABLE report for SB149.

⁴ “New Evidence Reveals Fossil Fuel Industry Funded Cutting-Edge Climate Science Research Dating Back to the 1950s”, Union of Concerned Scientists (April 13, 2016)<https://www.ucsusa.org/about/news/new-evidence-reveals-fossil-fuel-industry-funded-cutting-edge-climate-science-research>

⁵ <https://www.ucsusa.org/about/news/new-evidence-reveals-fossil-fuel-industry-funded-cutting-edge-climate-science-research>; <https://insideclimatenews.org/news/13042016/climate-change-global-warming-oil-industry-radar-1960s-exxon-api-co2-fossil-fuels/>

⁶ <https://www.ucsusa.org/about/news/new-evidence-reveals-fossil-fuel-industry-funded-cutting-edge-climate-science-research>;

⁷ <https://www.noaa.gov/news-release/during-year-of-extremes-carbon-dioxide-levels-surge-faster-than-ever>

⁸ <https://www.marylandmatters.org/2024/02/02/poll-shows-wide-support-in-md-for-making-polluters-pay-for-climate-change/>

SB 149 RENEW ACT Testimony_MF.pdf

Uploaded by: Dona Sorce

Position: FAV

Favorable Report: SB 149 - RENEW (Responding to Emergency Needs from Extreme Weather) Act.



TO: Chair Brian J. Feldman and Education, Energy, and the Environment Committee

FROM: Working Group Member, on behalf of Quaker Voice of Maryland

Personal email: dyesorce@gmail.com

Organization email: quakervoicecmd@gmail.com

DATE: Feb 8, 2025

Quaker Voice of Maryland, an advocacy group representing Quakers throughout Maryland, strongly supports **SB 149 - RENEW (Responding to Emergency Needs from Extreme Weather) Act.**

Quakers deeply believe in the stewardship of the Earth, viewing it as a sacred gift from God. We consider it our responsibility to care for all of creation. Global climate change is real and poses huge threats to life as we know it on earth. It is vitally important, particularly at this time, that Maryland continues to make progress on and expand our clean energy goals.

The RENEW Act supports these clean energy goals by establishing a stream of non-tax revenue to support and expand local and state wide efforts to adapt and mitigate major repetitive destructive weather events such as flooding, sea level rise, extended draught, salt water intrusion, and ongoing health issues such as asthma, and lack of adequate shelter, heat and cooling that result in significant negative impacts on the health of Marylanders and the state's economy.

These non-tax revenues would support programs managed by the Maryland Department of the Environment (MDE) related to climate change, the environment, natural resources, energy, utilities, resiliency, disaster recovery, housing, transportation, economic development, and health. It is important that the revenue be allocated to various programs addressing different community challenges.

Quaker Voice of Maryland strongly supports passage of SB149 and asks that members of the Education, Energy and Environment Committee to join us in that support.

Dona Sorce
Climate & Environment Team,
Quaker Voice of Maryland

SB 149-RENEW Act of 2925-Favorable.pdf

Uploaded by: Elizabeth Law

Position: FAV

BILL NUMBER: Senate Bill 149
Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

COMMITTEE: Education, Energy, and the Environment

HEARING DATE: February 13, 2025

SPONSOR: Senator Hester

POSITION: Favorable

Chair Brian Feldman, Vice Chair Cheryl Kagen and Members of the Committee,

As a resident of Frederick County, Maryland and person concerned with the costs due to the effects of climate change I ask for a Favorable Report on SB 00 37.

Senator Hester's Bill is comprehensive and practical. In brief, the Act would secure compensatory payments from fossil fuel businesses based on a standard of strict liability in order to provide a source of revenue for State efforts to

- 1) adapt to and mitigate the effects of climate change, including climate change adaptive or mitigation infrastructure projects within the State and
- (2) address the health impacts of climate change on vulnerable populations.

It is not news that the fossil fuel industry is responsible for the changes to our climate over the last 150 years. Industry studies since the 1960's confirmed this, although many of these studies were kept from the public. The science today is quite clear. Shouldn't such companies, who are some of the richest in the world be required to compensate the populations least able to protect themselves from the negative effects of climate change?

The Fiscal Note accompanying SB 149 points out that small businesses will not be adversely affected and "local governments may be meaningfully positively affected from additional funding for infrastructure projects to avoid, moderate, or repair damage caused by climate change and for other similar purposes."

Other states have enacted similar legislation. Maryland should do likewise to protect its most vulnerable residents.

Please return a Favorable report.

Thank you,

Elizabeth Law, P.E. (retired)

1758 Wheyfield Dr.

Frederick, Maryland 21701

SB 149_FAV_JCRC.SINGER.pdf

Uploaded by: Elizabeth Singer

Position: FAV



Committee: Education, Energy and the Environment
Finance

Testimony: SB 149 - Responding to Emergency Needs from Extreme Weather
(RENEW) Act of 2025

Organization: The Jewish Community Relations Council of Howard County, MD

Submitting: Betsy Singer

Position: FAVORABLE

Hearing Date: February 13, 2025

Dear Chair and Committee Members:

Our Jewish values compel us to act to repair the world (*tikkun olam*), which is a guiding principle of our Jewish faith. We act to prevent massive changes to Earth's climate as we face rising temperatures due to burning fossil fuels that trap greenhouse gases in the Earth's atmosphere. Floods, fires, and drought threaten the lives and livelihoods of Marylanders and people all over the U.S. and other nations of the world.

Today, extreme weather events are driving up costs for Marylanders and contributing to the state budget crisis. In Howard County, we are spending over \$228 million to combat flooding in Ellicott City. Nearly every jurisdiction across the state is affected by climate-related costs, all of which are currently borne by Maryland taxpayers.

The RENEW Act will attempt to alleviate this unfair burden by establishing the Climate Change Adaptation and Mitigation Fund. The largest international fossil fuel companies emit billions of tons of greenhouse gases that fuel climate disasters. Any company that has emitted more than a billion tons of greenhouse gas emissions between 1994 and 2023 and has sufficient connection with Maryland would pay a one-time fee into the Fund to help cover the costs of expensive upgrades to save the lives and infrastructure of vulnerable Marylanders. In 2023, the three largest oil and gas companies in the US reported combined profits of \$85.6 billion.

RENEW directs the state to conduct an analysis of how much climate impacts are costing Maryland, then directs the state to require these fossil fuel companies to pay that amount into the fund. RENEW relieves taxpayers of the financial burden of climate change by requiring out-of-state fossil fuel companies to pay for the costs, rather than the vulnerable people who currently pay the long-term price. We urge a favorable report on SB 149.

ECA SB0149 RENEW testimony.pdf

Uploaded by: Frances Stewart

Position: FAV



SB0149 - SUPPORT
Frances Stewart, MD
Elders Climate Action Maryland
frances.stewart6@gmail.com
301-718-0446

SB0149 – Responding to Emergency Needs From Extreme Weather (RENEW)
Act

Meeting of the Education, Energy, and the Environment Committee

February 13, 2025

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee, on behalf of Elders Climate Action Maryland, I urge a favorable report on SB0149, the RENEW Act.

Elders Climate Action is a nationwide organization devoted to ensuring that our children, grandchildren, and future generations have a world in which they can thrive. The Maryland Chapter has members across the state.

Each day, we see the climate crisis more clearly. We know that Maryland is at risk for sea level rise, saltwater intrusion, flooding from intense rainfall, heat waves, and other extreme weather events. These events will become increasingly common in the years to come, and state and local governments must respond.

For example, Annapolis is spending over \$50 million to upgrade their dock because of flooding. Howard County is spending over \$228 million to prevent flooding in Ellicott City. Every area in the state will be burdened by similar expenses. The costs of adaptation and disaster relief will continue to rise as the climate crisis continues.

Currently, taxpayers are footing the bill for all of this. In a time of constrained budgets, this is unsustainable. It is also unfair. The largest part of the responsibility

for the climate crisis lies with the fossil fuel companies who have deceived the public for decades while making immense profits.

The RENEW Act shifts these costs from Maryland taxpayers to the large fossil fuel companies. The state is directed to do an analysis of what it will cost Maryland to adapt to these impacts and then require large out-of-state fossil fuel companies to pay that amount to the state. The one-time payment will only apply to companies responsible for more than one billion metric tons of greenhouse gas emissions between 1994 and 2023. None of those companies are based in Maryland.

This one-time fee would be treated by the companies as a fixed cost in a competitive market and are not expected to increase the [price of gasoline](#) or other [costs for consumers](#).

Those funds will be used for climate adaptation and resilience in a variety of area including infrastructure, schools, agriculture, public health, and disaster preparedness across the state.

This is a relatively new approach, but Maryland would not be the first state to take this route. Vermont and New York have already passed similar legislation. California, Minnesota, New Jersey, Virginia, and Massachusetts are also considering legislation. On the Federal level, Senator Van Hollen recently reintroduced his “climate superfund” bill in the current Congress.

For all of these reasons, we strongly urge a favorable report on SB0149.

SB 149 - MoCo DEP - Fitzgerald (GA 25) FAV.pdf

Uploaded by: Garrett Fitzgerald

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 149

DATE: February 13, 2025

SPONSOR: Senator Hester

ASSIGNED TO: Education, Energy, and the Environment Committee

CONTACT PERSON: Garrett Fitzgerald (garrett.fitzgerald@montgomerycountymd.gov)

POSITION: Favorable (Department of Environmental Protection)

Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

This legislation would establish the Climate Change Adaptation and Mitigation Payment Program to secure compensatory payments from fossil fuel businesses that have contributed to climate change over the last 30 years in order to provide a source of revenue for State efforts to adapt to and mitigate the effects of climate change including health impacts on vulnerable populations. The bill directs the Maryland Department of the Environment to recover payments from responsible parties as defined in the bill, and to identify and disburse that funding to projects in Maryland through the creation of a Climate Change Adaptation and Mitigation Fund.

Companies that have profited immensely while significantly contributing to the problem of climate change should be held accountable and required to help pay for the costs borne by Maryland communities because of that climate pollution.

This approach represents a rare and appropriate opportunity to secure new revenue to meet the significant costs of adapting to and mitigating climate change. We appreciate the intent to achieve this goal in a manner whereby those costs borne by responsible parties would not be significantly passed on to Maryland residents. We also appreciate and support the inclusion of grants to local jurisdictions in the list of potential uses of the Climate Change Adaptation and Mitigation Fund. Local jurisdictions are on the front lines of addressing climate impacts such as flooding and extreme heat, and are well positioned to effectively deploy funds in alignment with the goals of this legislation.

We respectfully request that the Education, Energy, and the Environment Committee issue a favorable report on Senate Bill 149.

SB 149_Support_Healthy Climate Maryland.pdf

Uploaded by: Healthy Climate Maryland N/A

Position: FAV

February 13, 2025

Support - SB 149 - Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Education, Energy, and The Environment Committee:

Thank you for the opportunity to support SB 149, The Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025. United by a shared commitment to the health and well-being of all Marylanders, Healthy Climate Maryland is a coalition of dedicated public health and medical professionals that seeks to address climate change and environmental challenges by focusing on their impacts on public health. We are working to educate, advocate, and build strong partnerships towards a healthier, more sustainable future for Maryland.

We support the RENEW Act's approach to generate much-needed funding for climate adaptation and mitigation strategies, assessing a fee on the largest fossil fuel companies for the damages they knowingly caused.

Health Impacts of Climate Change

Climate change impacts our health in a myriad of ways. Hotter, drier conditions create fuel for wildfires; hotter, wetter conditions create new habitats for mosquitoes and other bugs that carry illnesses; heat and air pollution create difficult conditions for people with respiratory illnesses. As we state in our [climate change overview factsheet](#), **"The main contributor to climate change is the burning of fossil fuels for energy, transportation, and industry. [Burning fossil fuels increases health hazards](#) through climate instability and the pollution it generates. Pollutants like ozone and PM2.5 degrade air quality, contributing to a range of health problems."**

In 2021, the Natural Resources Defense Council (NRDC) published a [report](#) that found that climate change and fossil fuel pollution result in \$820 billion in health costs annually. This number reflects costs seen through premature deaths, medical care for treatment of physical and mental health conditions, rehabilitation and home health care, prescription medications, lost wages and worker productivity, and downstream health costs (e.g. homelessness after a disaster). It is therefore fitting that the RENEW Act proposes a solution to fund climate adaptation and resiliency efforts paid by the polluters who caused the damages. This is a familiar approach to health professionals, as we have sought payment from tobacco companies from the damages they have caused.

Health Equity

While climate change creates risk for all Marylanders, [certain populations are disproportionately impacted due to unequal exposure and their limited ability to respond to climate risks](#). These include children, older adults, pregnant people, communities of color, low-wealth communities, people with disabilities and chronic health conditions, and those living in climate-sensitive geographies, such as rural, coastal, and flood-prone areas. Some of these vulnerabilities are due to unequal social structures and disparate access to opportunity.

The RENEW Act directs at least 40% of funding generated to communities disproportionately affected by climate impacts and includes several provisions to invest in environmental justice and health equity.

Similar bills have been introduced in four other states and one has passed in Vermont. This bill aims to prioritize Marylanders, not its polluters, and invest in addressing the health impacts of climate change for a more resilient Maryland.

Thank you for the opportunity to support SB 149, The Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025.

SB0010_ImanHabib_FAVOR.pdf

Uploaded by: Iman Habib

Position: FAV



Bill Title: SB0010 Reclaim Renewable Energy Act of 2025

Position: SUPPORT (FAV)

To: Education, Energy and the Environment Committee

From: Iman Habib, Climate Policy Analyst, Progressive Maryland

Date: 02/11/2025

Dear, Honorable Chair Feldman, Vice Chair Kagan, and the members of the Education, Energy, and Environment Committee.

As a resident of the City of Baltimore and a Maryland ratepayer concerned about public health and the environment, I am writing to express my **strong support for SB0010, the Renewable Energy Portfolio Standard - Eligible Sources - Alterations (Reclaim Renewable Energy Act of 2025)**. Although I am new to the city, I have lived here long enough to pick up on the stark health and environmental inequities unfolding across neighborhoods and the role that the built environment plays in contributing to these inequities. The built environment is described as the man-made aspects of the environment such as buildings, parks, streets, etc.¹ The Wheelabrator Baltimore Refuse Energy Systems Company (“BRESKO”) Incinerator in Baltimore is one example of this environment and it is evident that this man-made structure contributes to the health and well-being of the communities that surround it.

It baffles me that in 2023, it cost Maryland ratepayers like myself over \$24 million to subsidize waste incineration with almost \$9 million being direct toward BRESKO!² The state’s current Renewable Portfolio Standard (RPS) is partially responsible for this gratuitous investment in energy sources that are not clean in nature and are unnecessarily costing Marylanders. The RPS currently includes “waste-to-energy” as a Tier 1 renewable resource eligible for subsidization and this must change. Burning trash is not clean or renewable by any means and this practice emits carbon dioxide, mercury, lead, along with other toxic pollutants into the environment, which are not safe at any level of exposure.^{3,4} It is abhorrent that community members and ratepayers who are disproportionately plagued with these pollutants and subsequently suffering the health impacts of exposure to those pollutants are then economically burdened with financing BRESKO.

The 2024 PEER Report states that if waste incineration continues to remain in the RPS, between the years 2023 and 2025, Maryland energy providers will waste an additional \$200,000,000 to buy Renewable Energy Credits (RECs) from trash incineration to fulfill their renewable energy derivation requirements.⁵ RECs should not be wasted on dirty energy sources like waste incineration but should instead be invested in authentic, clean, renewable energy sources like solar power, wind power, and/or hydropower.

¹ “Built Environment” (Colorado Department of Public Health and the Environment, 2025)

² PEER Report (PEER, 2024)

³ “Mercury exposure and children's health” (Bose-O'Reilly S, McCarty KM, Steckling N, Lettmeier B., 2010)

⁴ “Lead in Food and Foodwares” (FDA, 2025)

⁵ PEER Report (PEER, 2024)



Passage of SB0010 will:

1. Remove “waste-to-energy” from the list of renewable energy resources eligible for RECs without shutting down incinerators in Maryland and with no additional cost to the state budget; and
2. Redistribute the subsidy that would have otherwise been used to finance waste incineration to cleaner sources of energy like solar, wind, and hydropower.

SB00100 will also help advance the Maryland Department of the Environment (MDE)’s Climate Pollution Reduction Plan which aims to modify definitions of qualifying resources that are eligible for subsidies under the Renewable Portfolio Standard in order to achieve the 2031 greenhouse gas emissions reduction goal. Simultaneously, this bill will ensure that Maryland ratepayers, particularly those that are low-income, Black and Brown community members, are no longer financing dirty energy sources that deteriorate the environment and exacerbate health outcomes in their communities.

I strongly urge you to pass SB0010 and demonstrate to Marylanders that the committee is passionate about economic investment in clean energy and environmental justice for the health and well-being of our communities.

Thank you for your consideration,

Iman Habib

Climate Policy Analyst | Progressive Maryland

SB0149_MDGrassrootsEJWorkgroup_FAV.pdf

Uploaded by: Iman Habib

Position: FAV

Bill Title: SB0149 Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

Position: SUPPORT (FAV)

To: Honorable Chair Feldman, Vice Chair Kagan, and the members of the Education, Energy, and Environment Committee

From: MD Grassroots EJ Workgroup

The MD Grassroots EJ Workgroup is submitting this **testimony in support of SB0149 Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025**. We, the undersigned, are a table of community organizations that work together to build power for people-centered environmental justice solutions that dismantle structural racism through environmental and climate initiatives.

As we experience human-induced climate change primarily driven by the burning of fossil fuels, Black and Brown communities disproportionately bear the impact of extreme weather events. Due to historic systemic inequities, such as redlining and de jure segregation which continue to impact our lives today, our communities find themselves in geographical locations prone to flooding and in areas with substandard infrastructure that are less resilient to extreme weather. These are often high risk areas that are highly polluted and cause wide-spread negative health impacts.

Addressing the impacts of climate change on communities of color takes an intentional investment in resilient infrastructure and climate solutions. SB0149 would allow Maryland to collect revenue to support critical investments in equity programs that alleviate the burden experiences in communities of color including but not limited to:

1. Medicaid;
2. the Office of Minority Health and Health Disparities;
3. the Resiliency Hub Grant Program for LMI communities;
4. the DHCD WholeHome weatherization program;
5. for the Commission on Environmental Justice and Sustainable Communities;
6. to expand the Overburdened and Underserved Communities staff at MDE;
7. to expand the EmPOWER Maryland Program staffing.

As Maryland faces a budget deficit, it is imperative that Marylanders, especially low-income Black and Brown communities, do not bear the financial burden brought on by “human-induced” climate change. Rather, the largest most polluting fossil fuel companies in the world should pay for the consequences that this *corporate* induced climate change is causing. It is imperative that our state not leave Black and Brown Marylanders behind as the climate crisis worsens. SB0149 allows us to dedicate specific funding to climate change mitigation and adaptation programs in the state. For this reason, the MD Grassroots EJ Workgroup urges a favorable report on SB0149.

Endorsing Organizations

The Maryland Just Power Alliance (Action In Montgomery (AIM), People Acting Together in Howard (PATH), Anne Arundel Connecting Together (ACT))

Baltimore Transit Equity Coalition

Black Girls Vote

CASA

Centro de Apoyo Familiar

Interfaith Power and Light (DC.MD.NoVA)

Out for Justice

Progressive Maryland

SB0149_ProgressiveMaryland_ImanHabib_FAV.pdf

Uploaded by: Iman Habib

Position: FAV



PROGRESSIVE MARYLAND

P.O. Box 6988, Largo MD 20774

ProgressiveMaryland.org

Info@progressivemaryland.org

Bill Title: SB0149 Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

Position: SUPPORT (FAV)

To: Honorable Chair Feldman, Vice Chair Kagan, and the members of the Education, Energy, and Environment Committee

From: Iman Habib, Climate Policy Analyst, Progressive Maryland

On behalf of Progressive Maryland, I urge a **favorable report on SB0149 Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025**. Passing the RENEW Act will relieve Maryland taxpayers from the financial burden of adapting to climate change, and help the state address our budget shortfall without requiring that Marylanders pay an additional cent in taxes or energy costs.

Right now, extreme weather events are driving up costs for Marylanders and contributing to the state budget crisis. Annapolis is spending over \$50 million to upgrade their dock due to chronic flooding; Baltimore City is paying to install air conditioning in public schools like City College because of hotter weather; Howard County is spending over \$228 million to combat flooding in Ellicott City; and similar costs afflict nearly every jurisdiction across the state. These costs are all borne by Maryland tax payers, and are a direct result of climate change.

The RENEW Act relieves taxpayers of this financial burden and forces out-of-state fossil fuel companies to pay for the cost of adapting to climate change, while ensuring that those companies are unable to pass those costs onto consumers.

SB0149 directs the state to conduct an analysis of how much anthropogenic climate impacts are costing Maryland, then directs the state to require large out-of-state fossil fuel companies to pay that amount to Maryland. The one time payment will only apply to companies that have emitted more than \$1 billion tons of carbon cumulatively between 1994 and 2023. That is a short list of companies, none of which are based in Maryland.

As an organization committed to uplifting and advocating on behalf of low-income, Black and Brown communities, we recognize the disproportionate impacts these communities face as a result of climate exacerbation. Those who are disproportionately bearing the burden of climate change through no action of their own should not be paying the cost. We kindly request that you pass the RENEW Act as this bill will relieve taxpayers from rising costs and protect Marylanders from worsening impacts of climate change. We urge a favorable report.

Thank you for your consideration,

Iman Habib

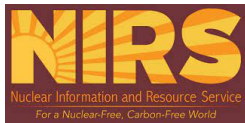
Climate Policy Analyst, Progressive Maryland

Senate RENEW Act 2025 sign on testimony .pdf

Uploaded by: Jamie DeMarco

Position: FAV

Testimony in Support The Responding to Emergency Needs from Extreme Weather (RENEW) Act
SB0149
Education, Energy, Environment Committee
2/13/25



On behalf of the organizations listed above, we urge a favorable report on SB0149

Heavier rains, higher tides, and record heat are damaging lives and infrastructure across Maryland today. The Responding to Emergency Needs from Extreme Weather (RENEW) Act will make the necessary investments to prepare for and recover from worsening extreme weather events. Right now, taxpayers across Maryland are paying for the cost of climate change, which are adding up and contributing to the state's projected budget shortfall. The RENEW Act will bring new revenue into the state without making a single Marylander pay an additional cent, by charging large, out of state fossil fuel companies a one time penalty for their historical emissions.

40 years ago, 9 inches of rain was a once in a hundred year rain event. Today, 9 inches of rain is a once in 10 year rain event, and few of the storm water management systems across the state are equipped to handle this increased precipitation. Upgrading these systems to handle heavier rain events is coming at a staggering cost. Howard County is spending \$228 million to bore an 18 foot diameter drainage tunnel through granite bedrock to reduce flooding in downtown Ellicott City. This is the biggest capital expenditure project in the history of the county, and was prompted by two once-in-a-thousand-year rain events that pummeled the city within the span of two years. The small businesses in Ellicott City had only just rebuilt after the first storm when the second hit. Not every storefront was able to bounce back a second time. The same story is playing out all across the state as water management systems are regularly overwhelmed by record-breaking rainfall.

Even as Maryland experiences record rainfall from the skies, the state is also experiencing record high tides, even on sunny days. The Annapolis dock now floods 50-60 days a year. In the 1970s it would flood, at most, four days a year.¹ As a result, Annapolis is spending over \$50 million to make improvements to the dock. All along Maryland's 3,000 miles of tidal shoreline, farmers are losing land to sea level rise. Betty Schulz has lived in Crisfield for 35 years. She used to lease part of her property to be farmed, but rising water levels have caused so much salt to enter the field that now nothing will grow there. Her story is far from unique, as rising seas are causing farmers to lose valuable arable land, without any compensation.

The hotter temperatures caused by climate change also come with costs. Since 1970, the number of days that are 90 degrees or higher have roughly doubled in Maryland.² As a result, public buildings that never previously needed air conditioning are finding themselves unable to operate for parts of the year. In June and September of 2023 public schools in Maryland closed for heat days because the AC systems in the schools could not handle the heat waves the state was experiencing. Ensuring every public school in Maryland has an adequate AC system will cost Maryland over \$700 million.³ Installing air conditioning in public prisons, where temperatures can reach a dangerous 110 degrees⁴, will cost even more.

1

https://www.bayjournal.com/news/climate_change/can-makeover-save-annapolis-city-dock-from-sea-level-rise/article_5b14ee3c-d827-11eb-ac82-4772366f7e6a.html

² <https://www.nytimes.com/interactive/2018/08/30/climate/how-much-hotter-is-your-hometown.html>

³ <https://coolingcrisis.org/states/maryland>

⁴ <https://www.baltimoresun.com/2005/07/27/many-state-inmates-improvise-to-stay-cool/>

To protect the people and places that Marylanders hold dear, the state must make necessary infrastructure investments to adapt to these new extremes. These investments will make Maryland a cleaner, more resilient, and more affordable place to live. They will create jobs and help prevent disasters from ruining homes and workspaces. The RENEW Act will provide the funds to make these necessary investments. It would raise billions of dollars over 10 years and provide the dollars the state needs to build new drainage systems, upgrade HVACs in public buildings, recover when disaster strikes, and much more. The funds would go to the comprehensive flood management program, the zero-emission school bus transition fund, the State Disaster Recovery Fund, the Strategic Energy Investment Fund, the Office of Minority Health and Health Disparities, shoreline protection projects, the Resilient Maryland Revolving Loan Fund, the Whole Home Program, and other programs that are already doing the work of preparing Maryland for more extreme weather.

40% of all the investments made by the Climate Change Adaptation and Mitigation Fund are required to go to overburdened, underserved communities, as defined by the Maryland Environmental Justice Screening Tool. The combustion of fossil fuels is causing climate change, and the same communities who have benefited the least from, and have been harmed the most by, fossil fuels are now being hit first and worst by the impacts of climate change. The same companies that caused the climate crisis have sited fossil fuel infrastructure and other polluting facilities disproportionately in communities of color. As a result, today people of color are exposed to higher levels of air pollution than white communities.⁵ Despite bearing a disproportionate burden, those same communities are too often passed over when it comes to distributing state investments. The RENEW Act's commitment to investing 40% of revenues into overburdened underserved communities is a step toward undoing those historical and ongoing harms.

All of these investments would be made without making any Marylanders pay for the costs. The bill says that any company that has emitted more than 1 billion tons of Carbon Dioxide equivalent between 2000 and 2020 must pay into a new Climate Change Adaptation and Mitigation Fund. There are about 40 companies that will be affected by this policy. None of them are based in Maryland, and all of them do business in Maryland.

[Senator Van Hollen first introduced this in Congress](#), and it was almost included in the Build Back Better Act. When it didn't pass nationally, states picked it up. Last year, similar legislation was introduced in Vermont, Massachusetts, and New York. It even passed the Senate in New York.

Here is a list of some of the companies that will be affected: Saudi Aramco, ExxonMobil, Royal Dutch Shell, Petroleos Mexicanos (Pemex), BP, Peabody Energy, Chevron, Petroleos de Venezuela (PDVSA), TotalEnergies, ConocoPhillips, Petronas, Glencore, Equinor, Contura Energy / ANR, ENI, Arch Coal, Rio Tinto, Anglo American, Occidental, Sinopec, Repsol, Libya National Oil Corp., Oil & Gas Corp., CNOOC (China National Offshore Oil Co.), RWE, CONSOL Energy, Sasol, Suncor, Devon Energy, EnCana/Onvativ, Ecopetrol, Apache, Murray Coal, Cloud

⁵ <https://www.nytimes.com/2021/04/28/climate/air-pollution-minorities.html>

Peak Energy, Alliance, Chesapeake Energy, Marathon, EOG Resources, Westmoreland, Hess, HeidelbergCement, Teck Resources.

Collectively, these companies will be required to pay Maryland millions a year for ten years. The exact amount will be determined by the cost impacts study. However, The percentage of that total that each company pays is proportional to the emissions from that company over the covered time period. This penalty will likely cost these companies roughly one fifth of one percent of their annual profits.

Market pressures and competition will ensure that these companies will not be able to pass this cost along to consumers. There are other oil and gas companies who are not subject to this one time penalty who will still be competing in the marketplace. Companies who will not be subject to this penalty include Wintershall, Inpex, YPF, Husky, Bahrain Petroleum Corp., OMV Group, Syrian Petroleum, PTTEP, Noble Energy, Woodside, Vistra, Polish Oil & Gas Co., and Southwestern.

If the companies who pay this penalty try to include this cost in the cost of their product, then they will make themselves uncompetitive with the many companies who are not paying this one time penalty. There are over 1,000 companies who are licensed to transport oil into the state of Maryland, and they will buy from whichever producer offers the lowest cost option. Through this market competition, the companies paying the penalty will not be able to pass the cost on to Maryland consumers.

To survive climate change, Maryland needs new revenue. The RENEW Act can provide these necessary funds without making Marylanders bear the financial burden. Maryland should waste no time in passing the RENEW Act and collecting funds from out of state energy companies and investing those funds in building a better Maryland.

Renew Act Testimony. J Johnson pdf.pdf

Uploaded by: Jeffrey Johnson

Position: FAV

My name is Jeffrey Johnson and I live near Reisterstown in Senate District 10. I am a volunteer with the Chesapeake Climate Action Network Fund, and a co-founder of the Chesapeake Earth Holders Community, which is a member of the Interfaith Power and Light network of faith based congregations. I am presenting written testimony in support of the RENEW Act-SB 149.

I am a 75 year old, retired person living in a 125 year old farm house in a rural part of Baltimore County. I am very concerned with the impact of extreme weather events on my home and my surrounding community. My home is currently in great need of upgrades to prepare for extreme weather events. During the frigid temperatures of this past month my wife and I were not able to keep warm due to the high winds and poor insulation and insufficient heat in our older home. Our property was built for an earlier time and needs considerable investment in weather proofing and a new heating system to make it habitable in the future. This is true for many homes in my area which continue to use heating oil and propane for heating and cooking. The costs of these fossil fuels are increasing rapidly and we will be paying thousands of dollars to keep our house warm enough to live in this winter. The RENEW Act will provide resources to help us prepare for even more extreme weather events in the future.

I realize that I and other taxpayers have been paying out of our pockets to prepare for the impact of climate change on our homes and our communities. Without the RENEW ACT we will not have the resources to continue paying for the necessary upgrades on our property. The RENEW act will also provide resources at the State and County level for the very expensive infrastructure projects that will become increasingly necessary in the future as the weather becomes more extreme.

The RENEW ACT puts much of the financial burden for these preparations on the biggest international fossil fuel companies that have emitted billions of tons of green house gases. In my view it is only right to hold these companies responsible for the damage they have done to our environment. This approach has been successfully applied in other states and will help provide the resources needed to invest in the critical infrastructure we need to protect Maryland now and into the future.

I would like to thank Senator Brian J. Feldman, Chair of the Education, Energy, and the Environment Committee, and the members of this committee for considering my sincere request to support the RENEW Act, Senate Bill 149.

Responding to Emergency Needs from Extreme Weather

Uploaded by: Jennifer Mizrahi

Position: FAV



Testimony in Support of the Responding to Emergency Needs from Extreme Weather (RENEW) Act

HB1438/SB0958

Submitted by: Jennifer Laszlo Mizrahi, Co-Founder, Mizrahi Family Charitable Fund

Hearing Date: February 13, 2025, at 1:00 PM

Committee: Energy, Education, and Environment Committee

The RENEW Act: Making Polluters – Not Taxpayers - Pay

The storms are stronger, the waters rise,
Smoke fills the air, fire scars the skies.
Maryland suffers—yet who pays the cost?
Not those who caused it, but those who've lost.

They knew for decades, yet spread their lies,
Chose profit over our children's cries.
Like Big Tobacco, they played the game,
And left us drowning in heat and flame.

If you break it, you must pay,
That's the law, that's the way.
No more burden on those in need—
Make polluters own their greed.

Maryland stands, our voices grow,
For change we need—we won't let go.
Pass RENEW, make wrongs made right,
Protect our future—join the fight!

Honorable Chairman Feldman, Vice Chair Kagan, and Esteemed Members of the Committee,

Thank you for the opportunity to provide testimony in strong support of the Responding to Emergency Needs from Extreme Weather (RENEW) Act (HB1438/SB0958). This crucial legislation will hold fossil fuel companies accountable for the damages they have inflicted on Maryland's communities, ensuring that the burden of recovery and adaptation does not fall unfairly on our residents, particularly those who are already vulnerable.

My name is Jennifer Laszlo Mizrahi, and I serve as a Maryland Climate Commissioner, representing philanthropy. I am also the co-founder of the Mizrahi Family Charitable Fund, which supports dozens of nonprofit organizations across Maryland. I have seen firsthand the devastating effects of climate change on our state—flooding, extreme heat, rising insurance costs, and a growing strain on public resources. Without action, these impacts will only worsen,

threatening Maryland's status as a "Goldilocks" state—one that is "just right" for families, businesses, and long-term economic prosperity.

The Deception of Big Oil and Gas: A Familiar Playbook

We have seen this story before. It is strikingly similar to what happened with Big Tobacco and the opioid crisis. I grew up in the largest tobacco-producing district in the world. My father, a cancer doctor, saw firsthand how the tobacco industry knowingly misled the public, even giving free cigarettes to employees while denying the deadly link to cancer. Day after day, he treated patients suffering and dying from lung cancer. Despite enormous opposition, my father and his colleagues testified before Congress. Their efforts, along with those of many others, led to warning labels, greater public awareness, and eventually a \$246 billion settlement to states, saving lives and improving public health.

Big Oil and Gas have followed the same deceptive playbook. They knew over 50 years ago that their products were fueling climate catastrophes, yet they chose profit over responsibility, misleading the public while the damage escalated.

- **ExxonMobil** conducted internal research on climate change as early as the 1970s. Despite knowing the harm they were causing, they funded campaigns to spread doubt about climate science and downplay the risks of global warming.
- **Shell's** own internal documents from the 1980s indicated they were aware of the potential dangers of climate change. Yet, they publicly downplayed the risks and lobbied against strong climate action.
- The **Union of Concerned Scientists** has published numerous reports showing that the American Petroleum Institute, a trade association representing the oil and gas industry, has long known about climate change but engaged in campaigns to cast doubt on the science and influence public opinion.

The Costs of Inaction: Maryland's Budget Cannot Bear This Burden Alone

We are all paying the price for fossil fuel companies' lies. Here in Maryland:

- **Ellicott City has committed \$228 million to flood prevention.**
- **Prince George's County requires \$60 million annually for stormwater management.**
- **By 2040, Maryland is projected to need billions for seawalls and coastal protections alone.**
- **Many homeowners, including myself, can no longer obtain flood insurance, making it impossible to sell homes where a mortgage is required.**
- **Our schools have had to close due to extreme heat, and wastewater systems are failing under extreme rain.**

Meanwhile, Maryland faces a massive budget crisis. We cannot afford to cut essential services, such as healthcare, disability services, housing, and education, while allowing multi-billion-dollar international corporations to escape responsibility for the harm they have caused. People

with disabilities, seniors, and vulnerable communities should not be left out in the cold while fossil fuel giants reap record profits.

Maryland Climate Commission Recommendation

The Maryland Climate Commission formally recommended polluter-pay actions in our **December 2024 Annual Report**. This recommendation underscores the necessity of holding fossil fuel companies financially accountable for the damages they knowingly caused.

Addressing Misleading Industry Opposition

Opponents of the RENEW Act, such as the Maryland Chamber of Commerce, argue against retroactive liability and strict accountability. However:

- **Retroactive Liability:** The U.S. Supreme Court upheld retroactive liability under **CERCLA**, recognizing that addressing environmental damage requires bold measures. (United States v. Monsanto Co., 1988)
- **Strict Liability:** Similar to **Big Tobacco's Master Settlement Agreement**, industries that knowingly caused public harm can be held accountable. (Tobacco settlement precedent)
- **Fairness:** The **polluter-pays principle** is well established. Just as states held **tobacco companies** and **opioid manufacturers** accountable, so too must we hold **fossil fuel companies** responsible for the damage they have caused.

Conclusion: "If You Break It, You Bought It"

This bill is about fairness. It ensures that those who profited from environmental harm pay their fair share, rather than placing the burden on Maryland taxpayers.

Big Tobacco was held accountable for its lies and the deaths it caused. So too was the Sackler family for their wrongful practices that led to opioid deaths. **The fossil fuel industry broke it. Now we need your help to make them pay.**

Maryland cannot afford to delay action. We must protect our communities, secure our economy, and ensure that our most vulnerable residents are not left behind. **I urge a favorable report on HB1438/SB0958.**

Thank you for your time and consideration.

Jennifer Laszlo Mizrahi

Email: JLM@LaszloStrategies.com



<https://marylandmatters.org/2025/01/27/trumps-climate-orders-and-marylands-budget-crisis-demand-bold-action-now/>

Trump’s climate orders and Maryland’s budget crisis demand bold action now

President Donald “Drill Baby Drill” Trump’s new executive orders doubling down on fossil fuels and slashing clean energy mandates have sent a dangerous message: America is moving backward in the fight to protect the people and planet we love.

But here in Maryland, we don’t have to follow his lead. Instead, we can seize this moment to double down on progress and accountability, ensuring our state remains resilient in the face of the growing climate crisis. Given our budget crisis, we need to do it in a way that is fair, cost effective and will ensure our economy can thrive.

For Maryland, a state uniquely vulnerable to climate change impacts like rising seas, flooding and extreme heat, the stakes couldn’t be higher. We cannot rely on Washington to safeguard our future. Maryland must act decisively to secure its climate resilience and economic stability — and we can start by making polluters pay for their lies and the damage they’ve caused.

Maryland’s “Goldilocks” advantage is at risk

Maryland is a “Goldilocks State” — not too hot, not too cold, with a temperate climate that fosters economic growth and a high quality of life. We have the kind of inclusive values and excellent institutions of higher education and science that can make us attractive to people looking to relocate from other states. But the accelerating climate crisis is putting that balance at risk. Extreme weather events are becoming more frequent and severe, threatening lives, livelihoods, and infrastructure.

The costs are staggering. In Baltimore and St. Mary’s County, millions are being spent to upgrade stormwater systems as rainfall intensifies. Annapolis has committed \$84 million to protect against rising tides. Statewide, Maryland will need billions more to shield our communities and transition to clean energy. Meantime, we are facing a budget crisis.

So far, however, Maryland’s budget is looking like it will rely on cuts to services and increases in fees and taxes to some Marylanders alone — leaving money on the table that morally should be ours.

We need measures that will hold corporate polluters accountable while delivering resources Maryland needs to combat climate change effectively. Without such forward-thinking policies, taxpayers will bear the brunt of lost services and mounting expenses, while fossil fuel companies rake in record profits.

The solution: three bills to make polluters pay

Maryland has a chance to lead where Washington is failing. Three pivotal bills could shift the financial burden of the climate crisis from taxpayers to the corporations that created it:

1. **The RENEW Act (HB128)**: This bill establishes a fund for climate resilience projects, funded by fossil fuel companies. Similar bills have passed in Vermont and New York. Here at home, it could yield \$9 billion to finance critical infrastructure improvements and clean energy initiatives.
2. **Climate Lawsuit Authority (HB340)**: This legislation enables Maryland to hold fossil fuel companies accountable in court for their role in causing climate damage. Similar lawsuits have already achieved significant settlements in other states, redirecting billions of dollars toward climate solutions.
3. **Coal Fee Legislation**: Speaker Pro Tem Dana Stein's upcoming bill will place a fee on coal transportation in Maryland, directing approximately \$300 million a year toward renewable energy projects and public health programs in communities affected by coal pollution.

Supercharging Maryland's economy

Fossil fuel companies claim that holding them accountable will hurt the economy, but the opposite is true. By investing in clean energy, climate resilience and public health, Maryland can create thousands of good-paying jobs in industries of the future. These investments will reduce energy costs, improve air quality and attract businesses and residents who value a sustainable, forward-thinking state.

Moreover, making polluters — not taxpayers — pay for the damages they caused will ease the financial burden on Maryland families. Rather than watching their tax dollars go to emergency repairs and cleanup, Marylanders can look forward to a future where corporate accountability funds prevention and innovation. It worked with tobacco and opioids, and should be done with fossil fuel companies as well.

Maryland has already made significant strides toward combating climate change, achieving a 30% reduction in greenhouse gas emissions since 2006. But we can't rest on our laurels. Trump's executive orders remind us that federal leadership cannot be counted on to protect our communities. The responsibility lies with us to secure a livable future.

By passing the RENEW Act, HB340 and the coal fee legislation, Maryland can set a national example of climate leadership and economic fairness. These bills are not just about holding polluters accountable — they're about protecting the places we call home, the people we love and the opportunities we want to preserve for future generations.

It's time to act boldly. Let's make polluters pay — and ensure Maryland remains a beacon of resilience and progress in an increasingly uncertain world.

Jennifer Laszlo Mizrahi is co-founder of the Mizrahi Family Charitable Fund, which is a financial supporter of Maryland Matters. She serves on the Maryland Climate Commission and multiple nonprofit advisory boards. Contact: JLM@LaszloStrategies.com <https://mizrahienterprises.com/charitable>

RENEW Act SB149 2025.pdf

Uploaded by: John Eckenrode

Position: FAV

SB 149 -Support

John Eckenrode

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Joint Meeting of the Education, Energy and Environment Committee and the Finance Committee February 13, 2025

SB 149- Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Dear Chair Feldman, Vice Chair Kagan, Members of the Education, Energy and Environment Committee,

Chair Beidle, Vice Chair Hayes and Members of the Finance Committee,

I wish to express my support for a favorable report on SB 0149. At this time of a budget shortfall, our state is starting to experience the additional strain of coping with the problems generated by climate change. Climate impacts such as intense storms, flooding, salt water intrusion and prolonged periods of high temperatures will continue to put financial pressure on the Maryland state government to provide relief and means for our residents to adapt to these increasingly unhealthy and destructive conditions.

Passage of the RENEW Act would be a major step forward in providing Maryland with the means necessary to cope with the impacts of climate change. The bill would require that fossil fuel companies who do business in Maryland and have reached a threshold of carbon emissions at 1 billion tons between 1994 and 2023 be required to make a one-time contribution to a state run "superfund" type of account. These collected funds would be used for the mitigation of and adaptation to the effects of climate change in Maryland. The amount to be paid by each of these companies would be determined by a state sponsored analytical study which is called for by the bill. The list of polluters subject to these payments would number about 40 and none would be headquartered in Maryland. Similar bills to this have been enacted in Vermont and more recently New York State. California, Minnesota New Jersey, Virginia and Massachusetts are considering similar legislation.

The logic of this bill is that as climate conditions worsen, the burden of coping with these crises must not just fall on the shoulders of private citizens and governments. They must also be shared by fossil fuel companies, who at this point, have not only been held to very little financial accountability, but are also continuing to enrich themselves as they continue to pollute. The logic also goes that because these larger polluting fossil fuel companies must still compete in price with smaller companies who are exempt from the RENEW Act charges, they would be reluctant to try to pass these charges on to the consumers. The RENEW Act would therefore help Maryland to cope with climate change without putting an additional burden on Marylanders either as taxpayers or energy users.

Please pass the RENEW Act. It would be a relief to Maryland taxpayers from the rising costs of climate change while making polluters pay their fair share.

Respectfully,
John Eckenrode

John Stith Testimony SB149 Favorable.pdf

Uploaded by: John Stith

Position: FAV

SB149 - FAVORABLE

John Stith

john.stith@gmail.com 301-502-3634

**SB 149 - Responding to Emergency Needs From Extreme Weather
(RENEW) Act of 2025**

Education, Energy, and the Environment Committee

February 13, 2025

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee.

I live in the Carole Highlands neighborhood of Prince George's County, in Legislative District 47B. My address is 7219 16th Ave, Takoma Park.

When people say they want the environment protected, we know it won't be free.

Part of the American ethos is that we sacrifice and take risks for our children. The RENEW Act is popular because Marylanders are willing to take a risk on an untested policy – that for ten years, the largest fossil-fuel companies should pay Maryland \$900 million per year of fees to pay for the damage their products are causing. (To give some context, Maryland's Motor Fuel Tax raises about \$1.3 billion per year.)

Economists at the Institute for Policy Integrity at the NYU School of Law studied the RENEW Act's concept and found that according to mainstream economic theory, passing this bill would not raise the price of gasoline. But "Polluter Pays" is good policy even if these economists are somehow wrong and some costs are passed on to us as consumers.

The General Assembly has adopted a tire recycling fee that is clearly passed on. It is considering a bill to have consumers pay a recycling fee directly when buying electronic devices. There are bills this year to apply responsibilities and costs to the producers of packaging materials and batteries, which could well raise the prices of those items.

The majority of Marylanders approve of these policies because we want to sacrifice to make a better future. We don't expect a better future for free.

Thinking about my own life, it was at the toughest times, when I lived on the smallest budget in the smallest apartment, that I'm the proudest of, because I worked hard, took calculated risks, saved every dime, and provided for my children's future.

I volunteer with the Chesapeake Climate Action Network Action Fund because we are proposing big plans to address one of humanity's biggest problems.

If you are doubtful about the RENEW Act, I ask to hear to your plan. States like Maryland have to lead for big problems to be addressed. What big thing do you think we should do to slow climate change?

2025FoodandWaterWatch-Support SB149.pdf

Uploaded by: Jorge Aguilar

Position: FAV



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Support SB 149

Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025
February 12, 2025
Education, Energy, and the Environment Committee

On behalf of Food & Water Watch and our 44,000 supporters in Maryland, we urge a favorable report on SB 149 and full passage of the RENEW Act.

Passing the RENEW Act will relieve Maryland taxpayers of the financial burden of adapting to climate change and help the state address our budget shortfall without making any Marylanders pay an additional cent in taxes or energy costs.

Right now, municipalities across the state are spending hundreds of millions of dollars not just to respond to extreme weather events, but to address every-day resiliency needs that are ultimately borne by Maryland's tax paying families. The costs are likely to continue increasing over the next few years, so it is important for the legislature to take action to address this cost now.

The RENEW Act seeks to take that costly burden away from Maryland's families and, instead, require that those companies most responsible for climate change via their carbon emissions pay into a new Fund to pay for these costly programs. It is modeled after similar legislation passed in New York and Vermont that applies the logic of the original Superfund Act, which requires polluters to pay to clean up their contaminated sites, to the ongoing changes to our climate.

New York's version would raise up to \$3 billion of revenue annually for the next 25 years. Maryland's bill does not yet come up with a dollar amount. Instead, the bill directs the state to conduct an analysis of how much anthropogenic climate impacts are costing Maryland, then directs the state to require a short list of companies, mostly large out-of-state fossil fuel companies, to pay that amount to Maryland.

At a time when Maryland's leaders are wrestling with a budget deficit, the RENEW Act raises revenue for investments in programs that must be built out, including ones to modernize and prepare our municipal water systems for climate change.

We urge your passage of the the RENEW Act.

Jorge Aguilar
Southern Region Director
Food & Water Watch

SB149 - CASA Written Testimony (1).pdf

Uploaded by: Jose Coronado Flores

Position: FAV



Testimony in SUPPORT of SB149
Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025
Senate - Education, Energy, and Environment Committee
Jose Coronado-Flores , On Behalf of CASA

February 13th, 2025

Dear Honorable Chair Feldman and Members of the Committee,

CASA is pleased to offer **favorable testimony in support of SB149 -Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025**. SB149 is important legislation that will address current and future climate change related weather impacts by holding the fossil fuel companies with the largest stakes in the industry accountable for pushing a product they knew was dangerous for the Earth and people. CASA is invested in seeing this bill pass because of the health risks, financial losses, and general dangers that climate change poses on the immigrant and working class community in particular.

Some of the most at-risk individuals in terms of climate change are those who reside in flood-prone areas. Funds obtained from the RENEW Act would directly augment the state's budget comprehensive flood management program. I have spoken in this committee before about the real life consequences of inadequate stormwater management in communities like East Riverdale¹ and Rockville² where low-income people have been hurt, displaced, and lost their possessions. The RENEW Act also directs money towards preparing for and recovering from severe weather events. We cannot wait for weather to become even more extreme and more people to die or be hurt before making substantial improvements to our response and readiness.

The last point I want to convey on flooding and sea-level rise is that the RENEW Act allocates funds to relocate or elevate Wastewater Treatment Plants. This finer point is based on the fact that treatment plants like the Patapsco Treatment plant in Curtis Bay, which is an overburdened and underserved community, are in locations that will flood in the future, so preventing the environmental and human disaster of these facilities being disrupted is imperative. This area near residential Brooklyn Park also experienced severe flooding in 2024³

Lastly, many CASA members are construction workers, landscapers, and holders of other manual labor outdoor positions. As temperatures rise and more brutal summers come, they will be at extreme risk of heat-related illness. This bill directly addresses their needs for health care relating to the effects of climate change by directing money to the Office of Minority Health and Health Disparities.

In conclusion, SB149 will help protect those in the state who are most vulnerable to the imminent effects of climate change. CASA urges a favorable report.

Jose Coronado-Flores
Research and Policy Analyst
jcoronado@wearecasa.org, 240-393-7840

¹<https://wjla.com/news/local/prince-georges-county-community-weather-severe-storms-floods-flooding-businesses-cars-apartment-riverdale-park-restore-monday-fire-department-rescues>

² <https://wjla.com/news/local/water-rescue-rockville-apartments-flood>

³ <https://www.cbsnews.com/baltimore/news/several-vehicles-towed-out-of-floodwaters-in-south-baltimore/>

SB149 - RENEW ACT - Climate Parents of Prince Geor

Uploaded by: Joseph Jakuta

Position: FAV

Committee: Economic Matters
Testimony on: SB 149 - "RENEW Act"
Organization: Climate Parents of Prince George's
Person Submitting: Joseph Jakuta, Lead Volunteer
Position: Favorable
Hearing Date: February 13, 2025



Dear Mr. Chairman and Committee Members:

Thank you for considering our testimony to SB 149, "Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025." Climate Parents is a campaign to reduce climate change-causing pollution in our schools, and our group is active in Prince George's County. In particular, we recently worked directly with Prince George's County Public Schools (PGCPS) technical staff and other advocates to develop a first-in-the-nation School Climate Change Action Plan.

The RENEW ACT establishes a Climate Change Adaptation and Mitigation Payment Program that will be paid for by a charge to companies that extract fossil fuels or refine petroleum products. The payments will then feed into the Climate Change Adaptation and Mitigation Fund, which will provide important funds to both adapt to the harm faced by Marylanders from already occurring climate change and to help mitigate emissions to lessen the impact Maryland will have on the climate going forward.

The general concept of the RENEW ACT should be applauded, and we are particularly supportive of the efforts in the bill to make sure the Climate Change Adaptation and Mitigation Fund, in part, addresses the negative health impacts of climate change on vulnerable populations.

It also is the morally correct thing to do. The companies that have misled the public over the damages their products have caused to our planet and that will potentially be catastrophic to our children's futures should be made to pay for the damages they have done to Marylanders.

However, we do wish to focus on the particular provisions of the RENEW ACT that are the focus of our campaign and would specifically benefit the children whose planet and well-being have been and continue to be harmed by fossil fuel polluters.

First, we are specifically supportive of § 2-1701(B)(2)(VI), which allows some funds to go towards retrofitting schools and other buildings with efficient heat pumps. Retrofitting existing buildings with sustainable heating solutions has quite high upfront costs, especially for our school systems that are facing the increased, but important, financial pressure from the Blueprint. By providing explicit funding for school systems to install heat pumps in § 2-1701(B)(2)(VI), this legislation will help to overcome a key barrier that school systems face when it comes to holistic heating system retrofits. Additionally, the more schools that replace older inefficient heating systems with heat pumps, the more cost savings will accrue to the school system that can offset some of the increased educational costs from Blueprint implementation.¹²

¹ <https://www.achrnews.com/articles/153542-heat-pumps-a-popular-alternative-for-k-12-schools>

² <https://rmi.org/four-reasons-why-k-12-schools-are-warming-up-to-heat-pumps/>

We are also supportive of § 2-1705 (F)(4)(XI), which would provide funds for resiliency hubs. Due to their central importance in the community, schools are an excellent location for such a hub and the PGPCS Climate Action Plan particularly recommends schools be designed as resilience hubs.

Additionally, we are also supportive of § 2-1705 (F)(4)(XXII), which would provide funds to Zero-Emission Vehicle School Bus Transition Grant Program. This program is important for Maryland schools to transition to electric buses, especially since, while beneficial, the federal funds provided for electric bus transition are not sufficient for a wholesale transition to clean buses.

The RENEW Act is an important step forward in shoring up Maryland to the impacts of climate change and mitigating our impact in the future, all while holding the companies that got us here to account. Our children are counting on the General Assembly to do the right thing by holding the companies that are risking our children's future for profit to account.

We encourage a **FAVORABLE** report for this important legislation.

SB0149_FAV_RCC.pdf

Uploaded by: Joy Reeves

Position: FAV



SB149 - SUPPORT

Joy Reeves

The Rachel Carson Council

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Rachel Carson Council's Support for SB149: Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Joint Meeting of Education, Energy, and the Environment and Finance Committee

February 13th, 2025

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy and the Environment and Finance Committees,

On behalf of The Rachel Carson Council, a national environmental justice nonprofit organization with a robust Maryland campus network, we urge a favorable report on SB149 as a taxpayer relief bill that prioritizes Maryland's future.

Rachel Carson once said, "The more clearly we can focus our attention on the wonders and realities of the universe about us, the less taste we shall have for destruction." In her legacy—and in response to the voices of young people across the state of Maryland—we must pass policies like the RENEW Act as taxpayer-friendly safeguards to protect Marylanders from the worst and most costly climate impacts: flooding, intense storms, extreme heat, saltwater intrusion, and related public health concerns.

Simply put, it is unfair for Maryland taxpayers to shoulder the costs of extreme weather events and watch those disasters worsen our state budget deficit. Passing the RENEW Act will relieve Maryland taxpayers of the financial burden of adapting to climate change and help the state address our budget shortfall **without making any Marylanders pay an additional cent in energy costs or taxes.** Similar legislation has passed in Vermont and New York, with bills also under consideration in Virginia, New Jersey, Massachusetts, Minnesota, and California. All of these states have seen unique and unprecedented climate disasters, many yielding billions of dollars in damage.

Whether we like it or not, Maryland will continue to see expensive, impossible-to-ignore disasters made worse by climate change. The question is whether we will let those disasters worsen the budget crisis as taxpayers pay up, or instead let the polluters responsible invest in Maryland's health, infrastructure, fuel switching, schools, and disaster preparedness.

Howard County is spending over \$228 million to combat flooding in Ellicott City, Baltimore City is paying to install air conditioning in public schools like City College because of hotter weather, Annapolis is spending over \$50 million to upgrade their dock due to chronic flooding, and similar costs afflict nearly every jurisdiction across the state. **These costs are all currently borne by Maryland tax payers.**

The RENEW Act moves the costs from taxpayers to out-of-state fossil fuel companies to fund climate adaptation. Those companies will not be able to pass those costs onto consumers.

The bill directs the state to conduct an analysis of how much anthropogenic climate impacts are costing Maryland, then directs the state to require large out-of-state fossil fuel companies to pay that amount to Maryland. The one-time payment will only apply to companies that have emitted more than \$1 billion tons of carbon cumulatively between 1994 and 2023. That is a short list of companies, none of which are based in Maryland.

Please pass the RENEW Act as a revenue-raiser that will alleviate taxpayer burdens and protect Marylanders from worsening, inevitable impacts of climate change in our state.

The Rachel Carson Council urges a favorable report on SB149.

EEE_B&T_SB0149_FAV_MCEC_2025_02_13.pdf

Uploaded by: Katherine Magruder

Position: FAV



I. Katherine Magruder
Executive Director
ikm@mdcleanenergy.org
301-314-6061

Maryland Clean Energy Center (MCEC) was created as a body politic and corporate instrumentality of state in 2008 through an act of the Maryland General Assembly.

MCEC focuses on an economic development mission to advance the adoption of clean energy and energy efficiency products, services, and technologies with associated jobs, wages, and tax revenue for Maryland. MCEC leverages private capital and private sector capabilities; facilitates the commercialization of innovative advanced energy technologies; implements climate justice initiatives, strives to reduce energy costs for consumers, and drives reductions in greenhouse gas emissions associated with the use of fossil fuels.

SB0149 – Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Hearing Date: Thursday, February 13, 2025
Committee: Senate Education, Energy, and the Environment / Finance Committees
Recommendation: FAVORABLE REPORT

MCEC supports the intent and purpose of this legislation and applauds efforts to provide a source of revenue for State entities to address climate change effects on the environment and the health of Maryland citizens. The establishment of the Climate Change Adaption and Mitigation Payment Program in the Department of the Environment would allow MCEC to continue investing in projects throughout the State that contribute to climate adaptation and greenhouse gas emissions reduction.

The Climate Solutions Now Act of 2022 created the Climate Catalytic Capital (C3) Fund with \$5M of funding allocated in the Governor’s Budget for three years, beginning in FY 2024, and the Maryland Clean Energy Center (MCEC) as administrator for the fund. The C3 Fund is governed by an Investment Oversight Committee appointed by the MCEC Board of Directors and chaired by Comptroller Brooke Lierman. MCEC has been working for over a year developing a strategy, application process, and criteria for the selection of projects for the C3 Fund, as well as the use of public funds to attract greater private capital for projects designed to mitigate the effects of climate change through greenhouse gas emissions reduction and climate adaptation.

The program revenue proposed in SB0149 would extend the C3 Fund beyond the current sunset at the end of FY 2026 with a viable funding mechanism.

As the statewide green bank, MCEC has demonstrated experience managing loan programs, including the Clean Energy Advantage Loan Program for homeowners, the Maryland Property Assessed Clean Energy (PACE) loan program serving commercial and nonprofit entities, and the Maryland Clean Energy Capital Program (MCAP) financing projects for municipal and institutional entities. **MCEC is proactively pursuing federal and philanthropic grant resources that could effectively be combined with revenue from the proposed Climate Change Adaption and Mitigation Payment Program to assist organizations with clean energy and resilience improvement measures.**

MCEC urges a favorable report and thanks Senator Hester for her leadership in sponsoring this legislation.

MF_SB 149_RENEW Act Testimony.pdf

Uploaded by: Kathy Kinsey

Position: FAV



Committee: Energy, Education, and the Environment

Testimony on: Senate Bill 149 – Responding to Emergency Needs from Extreme Weather (RENEW) Act

Organization: Mobilize Frederick

Submitting: Karen Cannon, Executive Director

Position: Favorable

Hearing Date: February 13, 2025

Dear Chair Feldman, Vice-Chair Kagan, and Committee Members:

Thank you for the opportunity to comment on Senate Bill 149, the Responding to Emergency Needs from Extreme Weather (RENEW) Act. Mobilize Frederick urges the Committee to issue a **favorable** report on this important bill.

Mobilize Frederick is a nonprofit advocacy organization of Frederick City and County residents formed in 2022 to assist with implementing the recommendations of the Climate Response and Resilience Report, a comprehensive climate action plan published in 2021 that will put Frederick City and County on the path to safer, healthier, and more resilient communities through innovative and effective local solutions.

Like many other communities across Maryland, the City of Frederick and Frederick County are experiencing first-hand the impacts of climate change – higher temperatures, periods of extreme heat, extended drought, and high intensity storms that have caused repeated flooding and severe wind damage. For example, two extreme weather events in 2015 and 2018 caused severe flooding, stormwater and sewer system backups, and millions of dollars of damage in the City of Frederick. Flood levels in one residential area rose as high as 2.7 feet and made primary roads inaccessible to emergency responders. Costly upgrades to the City’s stormwater management system are needed to reduce the risk of flood damage from future extreme weather events.

According to the National Centers for Environmental Information (NCEI), which tracks and compiles storm and other extreme weather event data from across the nation, during the period between 1996 and 2021 Frederick County experienced:

- 237 flooding events that resulted in property damage totaling more than \$83 million;

- 12 droughts that caused more than \$40 million in crop damages;
- 57 extreme wind events that resulted in more than \$2 million dollars in property and crop damage; and
- 44 extreme heat events¹.

These loss estimates are believed to underrepresent actual losses because many losses go unreported, or like crop damages, are difficult to quantify. Going forward, extreme weather events will only increase in frequency and intensity, leading to mounting annual losses to City and County residents and businesses in the millions of dollars.

The RENEW Act is a vitally important revenue-raising bill that, through a one-time fee on international out-of-state fossil-fuel companies with the largest historical greenhouse gas emissions of more than 1 billion tons between 1994 and 2023, would raise billions of dollars for deposit in a newly created Climate Mitigation and Adaptation Fund to support State and local government climate programs. Each of the roughly 40 fossil fuel companies that would be subject to the penalty would pay a percentage of the total historical climate damages, as determined by the State Treasurer, that is proportional to that company's emissions over the covered period.

In this fiscally constrained time when the State is faced with the largest continuing structural deficit in its history, this legislation will shift a share of the cost of climate mitigation, adaptation, and recovery programs and projects to companies responsible for causing the pollution and resulting damages – costs that would otherwise be shouldered by taxpayers.

A growing number of states are turning to “climate superfund” legislation like the RENEW Act to fund climate programs. Both New York State and Vermont have enacted climate superfund legislation. Similar legislation is under consideration in Massachusetts, Minnesota, New Jersey, and California.

The funds raised by this bill would go to a wide range of State and local government infrastructure and other climate change programs, including:

- Flood management projects;
- Water, sewer, and wastewater treatment plant upgrades;
- Upgrades to roads, bridges, rail infrastructure, and transit systems; and
- Planning to prepare for extreme flooding.

¹ [Frederick County Hazard Mitigation and Climate Adaptation Plan](#), March 2022.

Low-income communities and communities of color located near highway corridors, trucking hubs, and industrial facilities have been disproportionately harmed by emissions from fossil fuels that degrade air quality. These frontline communities are also experiencing the worst impacts of climate change. To address these historical and ongoing harms, the RENEW Act requires 40 percent of all investments made by the Climate Change Adaptation and Mitigation Fund to benefit overburdened, underserved communities.

Marylanders overwhelmingly support the public policies embodied in the RENEW Act. In a December 2023 statewide poll of registered voters conducted by Gonzales Research & Media Services for the Chesapeake Climate Action Network, 68 percent of those surveyed expressed support for the policies contained in the RENEW Act. The full results of the poll are available [here](#).

The RENEW Act will relieve a significant burden on taxpayers by providing a much needed alternative source of funding that is critical to recovering from extreme weather events and building Maryland's resiliency to the impacts of climate change. For all the foregoing reasons, we urge the Committee to issue a **favorable** report on Senate Bill 149.

Karen Cannon
Executive Director

cc: Kathy Kinsey
Chair, Government Affairs and Policy Committee

Hester_SB 149 RENEW Testimony .docx.pdf

Uploaded by: Katie Fry Hester

Position: FAV

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

Education, Energy, and
Environment Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Support of SB 149 - Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

February 13, 2025

Chairman Feldman, Vice-Chair Kagan, and members of the Education, Energy, and Environment Committee:

Thank you for your consideration of Senate Bill 149, the Responding to Emergency Needs from Extreme Weather (RENEW) Act. This bill is founded on a simple premise: if you make a mess, you clean it up. The RENEW Act is a vital taxpayer protection measure that positions Maryland as a leader in building a cleaner, more resilient future while proactively addressing the increasing threats of climate change.

Climate change, driven by the production and consumption of fossil fuels, is an immediate and existential threat to the health and safety of Maryland's communities, economy, and environment. Fossil fuels are the largest contributor to climate change, producing over 75% of global greenhouse gas emissions and nearly 90% of carbon dioxide emissions, which drive rising temperatures, severe storms, droughts, rising sea levels, and various health and environmental issues.¹ In 2023 alone, taxpayers in the United States faced 28 distinct billion-dollar climate and extreme weather disasters, which caused more than \$92 billion in total damages.² These events increase in frequency and cost, disproportionately harming overburdened and underserved communities in Maryland.

Fossil fuel industries have known the dangers associated with their use long before it became common knowledge. For instance, ExxonMobil knew as early as 1977 and spent decades refusing to publicly acknowledge climate change and instead promoted climate misinformation. As a result of these climate denial campaigns and refusal to take action, Maryland is

¹ United Nations, Causes and Effects of Climate Change (n.d.), <https://www.un.org/en/climatechange/science/causes-effects-climate-change#:~:text=Fossil%20fuels%20E2%80%93%20coal%2C%20oil%20and,they%20trap%20the%20sun's%20heat>.

² Dana Drugmand, New Federal Legislation Proposes to Make Polluters Pay for Climate Change Sierra Club (2024), <https://www.sierraclub.org/sierra/new-federal-legislation-proposes-make-polluters-pay-climate-change>.

experiencing the consequences of rising sea levels, warming temperatures, and increased frequency and intensity of storms and flooding.

Climate change impacts health in a myriad of ways, resulting in the prevalence of food-borne, vector-borne, and water-related illness. Specifically, data from the Maryland hospitalization report between 2000 and 2012 shows that exposure to extreme heat increased the risk of hospitalization for heart attacks and asthma by 11% and 22%, respectively. Projections indicate these rates could rise dramatically, with heart attacks and asthma hospitalizations increasing 68.4% and 136.8%, respectively, by 2040.

Extreme weather events are becoming increasingly common, and Maryland is spending more money to respond to these events. Saint Mary's County is allocating \$950,000 annually to upgrade its stormwater management systems due to heavier rainstorms³. Annapolis is investing \$54 million to update its dock infrastructure in response to chronic flooding⁴. Prince George's County demands \$60 million annually for its Stormwater Management Enterprise Fund, absent other revenue sources⁵. Howard County is spending over \$200 million on flood prevention efforts in Ellicott City⁶. By 2040, Maryland will need \$27 billion to build seawalls in response to rising sea levels⁷. The consequences of climate change are costly, and taxpayers are currently shouldering 100% of the burden⁸.

This bill is modeled after the Polluters Pay Climate Fund Act that Senator Van Hollen first introduced in Congress and has reintroduced this year⁹. Further, states like Vermont and New York have already enacted similar successful measures through their respective Climate Superfund Act, both passed in 2024. Recently, New Jersey legislators voted to advance their own Climate Superfund Act. Modeled after these successful piece of legislation,¹⁰ the RENEW Act shifts the climate burden from taxpayers to the largest fossil fuel companies, holding them liable for the gas pollution and resulting harms they cause. These companies do not comprise Maryland's utility companies. Specifically, the RENEW Act would:

- Require the Department of the Environment (MDE), in consultation with the Comptroller and

³ CCAN Action Fund, *RENEW Act Responding to Emergency Needs from Extreme Weather* (n.d.), <https://ccanactionfund.org/renewact/>

⁴ Id., at 6

⁵ Lateshia Beachum, *Prince George's leaders weigh spending cuts as shortfall looms*. The Washington Post (January 16, 2024)

⁶ Id., at 6

⁷ Center for Climate Integrity, *High Tide Tax: The Price to Protect Coastal Communities from Rising Seas* (June, 2019), https://www.climatecosts2040.org/files/ClimateCosts2040_Report.pdf

⁸ Data for Progress, *Maryland Climate Superfund* (February 28, 2023)

⁹

<https://www.vanhollen.senate.gov/news/press-releases/in-first-action-of-119th-congress-van-hollen-reintroduces-legislation-to-make-polluters-pay-for-fueling-climate-change>

¹⁰ "Climate Change Superfund Act," S02129, not yet signed into law

the Treasurer, to conduct a study to determine the total assessment which would apply to 40 big name companies, guaranteeing objectivity.

- Then, require any company that has emitted more than a billion tons of greenhouse gas emissions since 1994 (the date the UN Framework on Climate Change went into effect) to pay a one time fee for the detrimental impacts caused by emissions. These funds would come from companies who have engaged in the trade or business of extracting fossil fuels or refining petroleum products.
- Collect funds to be held in the Climate Change Adaptation and Mitigation Payment Program within MDE, securing payments from companies such as ExxonMobil, Shell, BP and Chevron, who have emitted more than a billion tons during the covered 20 year period.
- Direct revenue to support state efforts to adapt to and mitigate the effects of climate change. This includes investments in flood management, clean energy initiatives for low-income and moderate-income households, solutions to climate related health disparities, upgrading stormwater systems, constructing seawalls, and more.

This year's bill is different from versions you have heard in the prior two years, with key improvements to enhance its constitutionality and align it with successful bills passed in New York and Vermont. Most notably, unlike previous versions, this bill does not impose a total assessment upfront. Instead, it mandates a study to determine the actual costs incurred by the state, ensuring that responsible parties pay their fair share—an approach modeled after Vermont's language. Addressing potential legal challenges, the Office of the Attorney General has affirmed that the **MDE study “will make the bill more defensible.”**

This legislation is not unprecedented. Similar legislation designed to bolster individuals and communities reeling from the impacts of climate change and hold intentional contributors accountable has a long history in the United States. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) passed by Congress in 1980 is one example, where polluters paid \$1.6 billion over a five-year period to clean up abandoned or uncontrolled hazardous waste sites.

The RENEW Act is a guaranteed taxpayer protection bill. The bill will not raise consumer prices by passing the fee cost along to consumers because:

- The companies required to pay will still have to compete with smaller producers who do not have to pay the fee. ([Institute for Policy Integrity](#))
- The assessment would be based on historic contributions to the current stock of greenhouse gases in the atmosphere, therefore it would not affect future production costs. It would be treated as a fixed cost that would be borne by the owners of the relevant companies. ([Letter from Professor Stilgitz](#))
- The total assessments to each company will be *nominal* compared to their overall revenues. The largest, most polluting fossil fuel companies have revenues of millions to

trillions of dollars per year. The assessment will not only be a small portion of this yearly revenue, but will also be due over a 10 year period. [\(No Pass Through\)](#)

This premise is simple, if you make a mess, you clean it up. Maryland taxpayers should not bear the costs of extreme weather. Fossil fuel companies have made record profits while escalating the climate crisis and avoiding accountability.

An amendment to the bill has been submitted for committee consideration; ensuring at least 40% of qualified expenditures from the fund shall be used for projects that prioritize communities with the highest environmental justice scores, as determined by the Maryland EJ tool.

As climate change intensifies, support for the **RENEW Act** is more crucial than ever. Every Marylander—if they haven't already—will feel its effects. With the proposed changes, this bill offers a constitutionally sound approach to keeping taxes low while investing in a stronger, more resilient future. Thank you for your consideration, and I urge a **favorable report on SB 149**.

Sincerely,

A handwritten signature in cursive script that reads "Katie Fry Hester".

Senator Katie Fry Hester
Howard and Montgomery Counties

No Pass through.pdf

Uploaded by: Katie Fry Hester

Position: FAV

Polluters Pay Bills do not carry a consumer pass through cost.

In order to prepare for the escalating impacts of climate change and protect taxpayers from the unavoidable costs, we must make polluters pay for the damages caused by their products. Holding the largest, most polluting fossil fuel companies accountable for these costs through a one-time fee proportional to their historical emissions will not have a consumer impact.

These costs cannot be passed on to consumers:

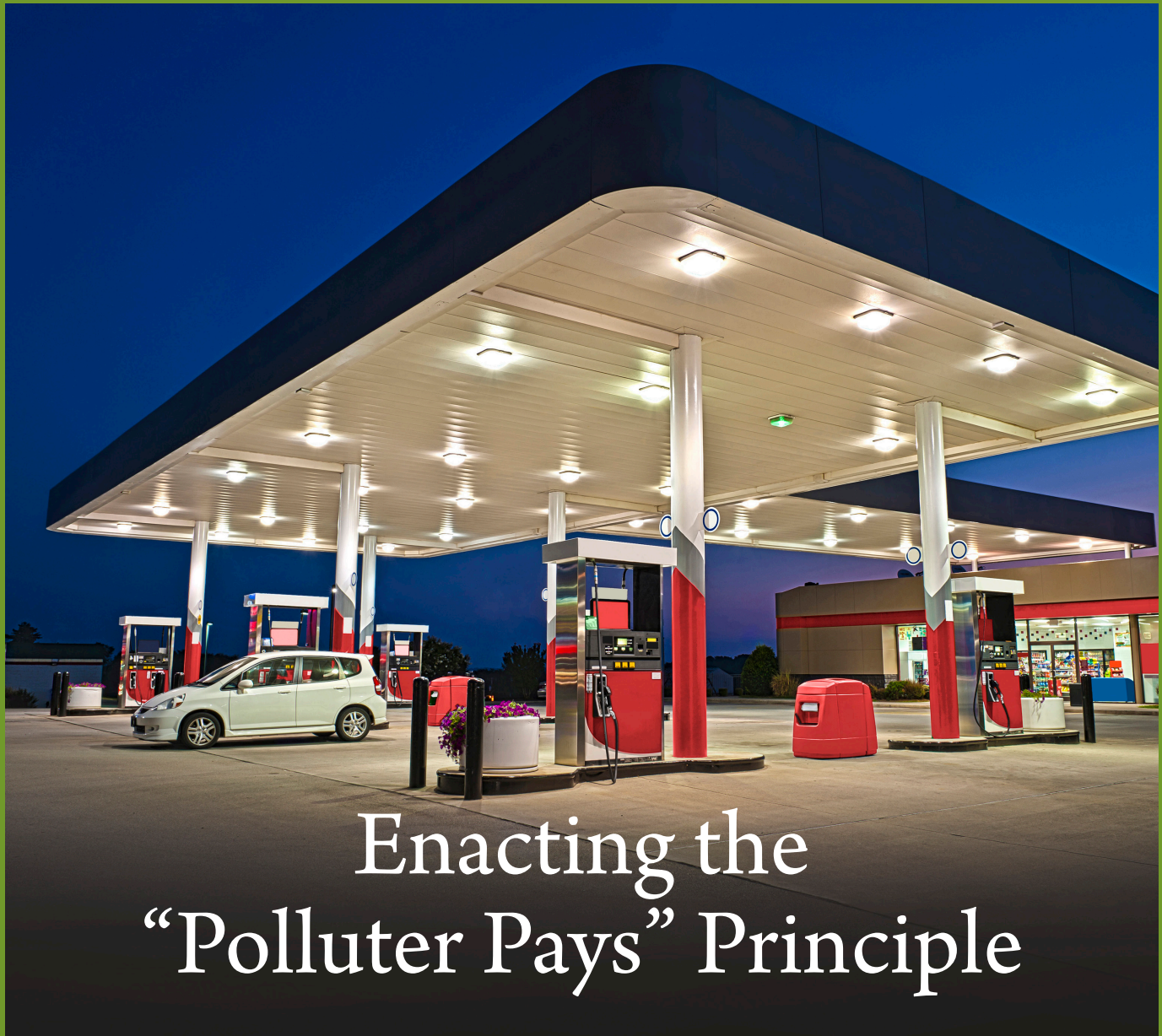
- The price of gas is not connected to oil prices. Oil prices are set by a global market.
- This assessment will be a one-time fixed cost that would not raise the price of production. Prices of goods and services are only increased when the ongoing price of production is increased.
- This assessment will only apply to some companies- the largest, most polluting companies. This small subset of companies would not be able to raise their prices because companies choose their prices based on what competitors are charging- not just their own costs. There will still be fossil fuel companies who are not being held liable by the legislation.
- The total assessments to each company will be nominal compared to their overall revenues. The largest, most polluting fossil fuel companies have revenues of millions, billions, and trillions of dollars per year. The assessment will not only be a small portion of their yearly revenue, but will be due over a 10 year period.

The Institute for Policy Integrity's 2022 report, "Enacting the 'Polluter Pays' Principle, explains these key points in great detail. The report can be found at this [link](#). Although the report analyzes the principle from a New York context, the economic principles still apply to other states as long as their legislation is significantly similar to New York's Climate Superfund bill.

Polluter_Pays_Policy_Brief_v2.pdf

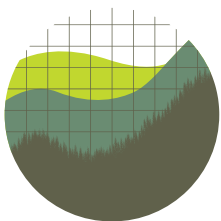
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Position: FAV



Enacting the “Polluter Pays” Principle

New York’s Climate Change Superfund Act
and Its Impact on Gasoline Prices



Institute for
Policy Integrity

NEW YORK UNIVERSITY SCHOOL OF LAW

Peter H. Howard, Ph.D.

Minhong Xu, Ph.D.

November 2022

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New York, New York 10012

Peter H. Howard, Ph.D., is Economics Director at the Institute for Policy Integrity at New York University School of Law, where Minhong Xu, Ph.D., is an Economic Fellow.

This report does not necessarily reflect the views of NYU School of Law, if any.

Executive Summary

This policy brief analyzes how New York State’s recently proposed Climate Change Superfund Act (the Act) is most likely to affect consumer gasoline prices. The Act establishes compensatory payments that would apply to fossil-fuel companies, including natural gas and coal companies, based on their historical contributions to the existing stock of greenhouse gases in the atmosphere (New York State Senate, 2022). The Act requires the state to place these payments in an adaptation fund to pay for green infrastructure that will help the state prepare for climate change.

The Act is unlikely to alter the price of gasoline at the pump in New York or the price of crude oil more generally. The Act’s compensatory payments would be based on companies’ historical contributions to the existing stock of greenhouse gas emissions such that these payments would reflect past sales of petroleum, and not current or future sales. Oil companies would therefore treat these payments as one-time fixed costs. Regardless of market structures, oil companies are unable to pass on increases in fixed costs to consumers due to economic incentives and competition (Nicholson, 2004, p. 205; Ritz, 2015).¹ Due to profit motivations, oil companies have significant incentives to leave their production levels and retail gasoline prices unchanged, even if firms may make operational changes in response to the Act.

The structure of the oil market in New York and globally is also unlikely to change in response to the Act. The Act applies only to large companies with significant operating revenue and large market capitalizations. Oil company profits will likely remain positive, particularly given their recent record profits, and thus widespread bankruptcies and consolidation are unlikely. Beyond the design of the Act, oil companies would also be unable to retaliate against New York by raising retail gasoline prices in the state due to the interconnectedness of the national and global energy markets and existing U.S. antitrust laws.

The Act could have a minor effect on retail gasoline prices by changing expectations about future liability, but even the direction of this effect is unclear. On the one hand, if the passage of the Act causes firms to increasingly anticipate future compensatory payments in New York based on current production decisions, the resulting expectations of increased marginal production costs could affect consumer prices in the state. On the other hand, firms may already anticipate that they will face liability for their contributions to climate change, such that failure to impose such charges may increase expectations of future policies that impose compensatory payments. Thus, it is unclear how actions taken now by New York State will impact perceptions of the likelihood of future policies. The recent rise in climate lawsuits nationally and globally combined with oil companies’ internal carbon prices strongly suggest that oil companies already anticipate financial liability for their contribution to climate change and that New York’s Act represents only a tiny portion of their overall liability risk.

Finally, as climate change is likely to disrupt energy markets (Clarke et al., 2018; Howard and Livermore, 2021; Rode et al., 2021), revenue generated by the Act will likely temper future energy cost impacts in the state. The Act’s compensatory payments will be placed into a climate change adaptation fund for green infrastructure. Infrastructure projects launched as a result of this fund will likely lower energy companies’ future expected costs in New York, including for the distribution of petroleum and the production and distribution of future oil substitutes. Thus, future energy prices related to transportation will likely be lower in the state as a result of the Act’s ability to stimulate adaptation to future impacts of climate change.

¹ Nicholson (2009, P. 205) states that “fixed costs play an important role in determining the firm’s profitability in the short run, but... they play no role in determining how firms will react to changing prices because they must pay the same amount in capital costs no matter what they do.” Ritz (2015) states that “From a theory viewpoint, this does not matter since changes in fixed costs do not affect prices, so any evidence for asymmetric pass-through must be due to changes in marginal costs.”

Overall, the Act is likely to have a negligible impact on current and near-term oil prices, while potentially lowering future energy prices in New York, including for transportation.

1. Introduction

There is a longstanding scientific consensus that carbon dioxide and other greenhouse gas emissions contribute to climate change, which imposes considerable risk on societies around the world (New York State Department of Environmental Conservation, 2022; United States Global Change Research Program, 2018; Pörtner et al., 2022; Howard and Sterner, 2017). According to the U.S. government’s National Climate Assessment (United States Global Change Research Program, 2018), climate change has already caused a wide range of damages for the Northeastern United States, including New York, and additional damages will continue for generations. Since 1900, the average surface temperature in New York has increased by 2.4°F, sea levels around the New York coastline and water levels in the Hudson River have risen by one foot, and precipitation has increased in the state, while snow cover in the wintertime is declining. Scientists expect these trends to persist, along with more frequent extreme weather events and a continued shift in native and invasive animal and plant species (New York State Department of Environmental Conservation, 2022).

Climate change will impact human and ecosystem health as well as many economic sectors, including the energy sector (Howard, 2014; Howard and Livermore, 2021; Pörtner et al., 2022). Substantial adaptation expenditures will be required to reduce exposure to these harms.

The Act aims to collect adaptation funds for New York from large fossil-fuel companies that are historically responsible for greenhouse gas emissions and sufficiently connected to the state of New York. This is consistent with the “polluter pays” principle that the polluter should bear the cost of their pollution. Often this comes in the form of the polluter compensating those impacted by the pollution or paying to prevent damages from the pollution. The principle is both an economic concept, which improves market efficiency, and a legal principle. A U.S. legal example is federal “Superfund” Law upon which the Act is based, which holds companies financially liable for the cleanup of their hazardous waste (Schwartz, 2010; Ambec and Ehlers, 2016).

New York’s Climate Change Superfund Act

In May of 2022, New York State Assemblyman Jeffrey Dinowitz and New York State Senator Liz Krueger introduced the Climate Change Superfund Act to the state legislature. At the time of this policy brief’s publication, the Act, also known as Senate Bill S9417, was in the Environmental Conservation Committee of the New York State Senate.

New York’s recently proposed Act would require compensatory payments, assessed on firms that engaged in the extraction, production, refinement, and/or sale of petroleum from 2000 to 2018. Firms would be charged a share of \$30 billion based on their proportional responsibility for global emissions of greenhouse gases emitted during this period. The Act measures greenhouse gas emissions in carbon dioxide equivalence, using emission factors based on fossil fuel type (i.e., coal, natural gas, or oil). Firms that emitted less than one billion metric tons during the covered period would be exempt from the payments. The Act imposes this liability on domestic and foreign responsible parties that are sufficiently connected to the state of New York. Firms subject to the fees could elect to pay over a nine-year period.

Currently, it is not entirely clear which oil companies will be covered by the Act. Firms will be assessed compensatory payments if they have “sufficient connection with the state to satisfy the nexus requirements of the United States Con-

stitution” (New York State Senate, 2022).² Companies that sell oil in New York are sufficiently connected to the state, while the designation is less clear for companies operating in parts of New York’s oil supply chain outside the state both domestically and internationally (Rothschild, 2022).

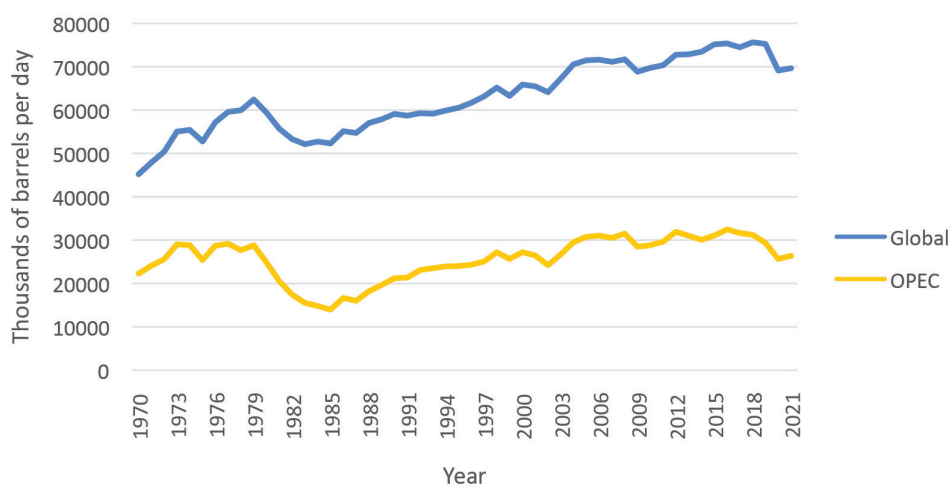
The Oil Industry

Based on the Act’s coverage, the analysis in this brief focuses on the current structure of two related oil markets: the global crude oil market and the New York State retail gasoline market.³ This subsection provides a brief overview of these two markets.

Global average annual petroleum production was 26.6 billion barrels from 2017 to 2021 (see Figure 1). The dominant players in the global crude oil market have traditionally been two overlapping organizations: the Organization of Petroleum Exporting Countries (OPEC), an intergovernmental organization of the 13 largest oil-producing and exporting countries; and OPEC+, a more loosely affiliated set of 24 countries. The former is responsible for 40% of global oil production and controls 80% of proven petroleum reserves, while the latter represents 61% of global oil production and 90% of global proven reserves (OPEC, 2022a; OPEC, 2022b); see Figure 2. Historically, OPEC countries have acted as a cartel to restrict supply and keep prices high (Tietenberg and Lewis, 2018, pp. 148-152). The combination of OPEC’s supply restrictions and the fracking boom led the United States to become the world’s largest oil producer starting in 2018, as it retook that mantle from Russia and Saudi Arabia (see Figure 3). The United States has approximately 2.3% to 2.5% of global oil reserves (US EIA, 2022b; OPEC, 2022a).

Figure 1. Global and OPEC Oil Production.

Source: OPEC (2022b).



² Under Supreme Court precedent, parties must have “certain minimum contacts” with a forum state that wishes to exert jurisdiction over them. *International Shoe Co. v. State of Washington*, 326 U.S. 310, 316–17 (1945). To satisfy this standard, the party must have engaged in some act by which it “purposefully avails itself of the privilege of conducting activities within the forum State.” *J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 877 (2011). For specific jurisdiction, the harm at issue must be connected to these activities and contacts within the state. *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011).

³ This brief does not address the impact of this Act on natural gas or coal prices. The electricity sector predominantly uses coal and natural gas for generation, while the transportation sector uses gasoline. Hence, the impacts of the Act on these other energy sources are unlikely to interact with its impacts on the oil industry, as these markets have little overlap in New York. At the national and global scales, there is some overlap between crude oil and natural gas on the production side, as wells frequently jointly produce them (US EIA, 2013).

Figure 2. Share of Global Oil Production.

Source: OPEC. (2022b)

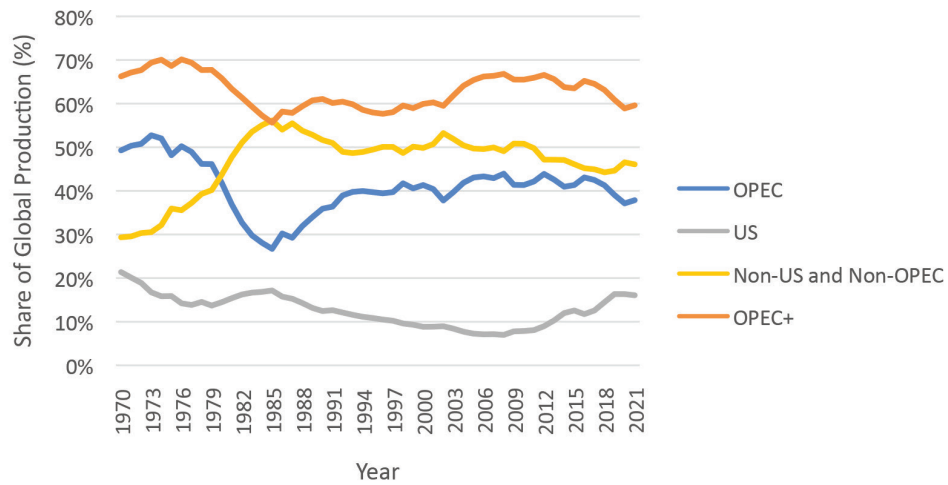
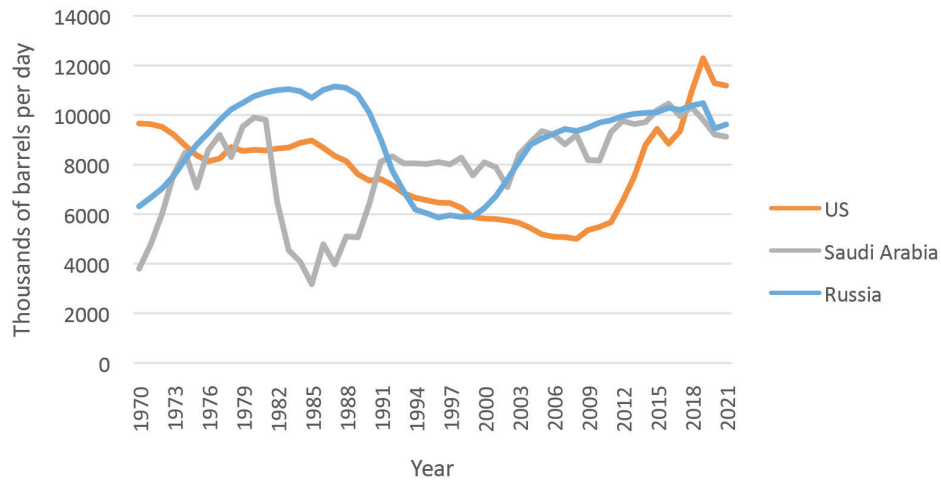


Figure 3. Oil Production of the Three Largest Oil Producing Countries.

Source: OPEC. (2022b)



In 2020, the United States accounted for 20% of total global oil consumption. The next two largest consumers are China (14%) and India (5%) (US EIA, 2022c).

New York consumes a significant share of retail gasoline in the United States, while producing virtually none. Of the 50 states, New York is ranked fifth in petroleum consumption, equivalent to 3.2% of national consumption and less than 1% of global consumption. New York ranked fourth in motor gasoline and jet fuel consumption. Most of the state's petroleum consumption comes in the form of retail gasoline (77%), though residential and commercial heating (16%) and industrial uses (7%) also represent significant shares (US EIA, 2022a).

In contrast, New York only produces 0.01% of U.S. crude oil and has no oil refineries, importing all of its petroleum from refineries in the Eastern United States (e.g., New Jersey and Pennsylvania), the Gulf Coast, the Midwest, and Canada. Thus, oil companies operating in New York State focus primarily on importing and selling fuel. In 2020, there were 4,959 gas stations in the state (US EIA, 2022a). Suppliers comprise many large U.S. and European oil companies, including ExxonMobil, British Petroleum (BP), Citgo, Shell, ConocoPhillips, and Phillips 66.⁴

2. Economic Theory of Prices in the Short Run to Medium Run

According to economic theory, firms set production quantities (and prices) to maximize their profits, subject to market demand. Regardless of the market structure, the profit-maximizing quantity and price of any good are a function of demand and the variable cost of production. As compensatory payments would not vary with firms' current production decisions, these payments would be considered fixed costs for oil firms. The proposed payments thus will not affect the equilibrium price or quantity of retail gasoline in the short run to medium run when firms are unable to exit or enter the industry, such that market structure is held constant (Nicholson, 2004, p. 205; Ritz, 2015).

General Theory

Economic theory indicates that an oil firm selects a production level to maximize its profits (total revenues minus total costs). Total costs are the sum of variable costs and fixed costs (Perloff, 2008, p. 205). Regardless of market structures, profit maximization for a firm occurs at a production level that equates the marginal revenue with the marginal cost, which are the revenue and cost of producing one additional barrel of oil, respectively (Nicholson, 2004, p. 251; Perloff, 2008, p. 458; Pindyck and Rubinfeld, 2013, p. 285, 288; Nicholson and Snyder, 2008, p. 543).⁵ As the marginal revenue of a firm depends on the production decisions of other firms, the exact solution varies with the market structure, which is characterized by the number of firms and their total cost functions. However, in any market structure, fixed costs do not affect the equilibrium quantity, as they are not part of marginal revenues or marginal costs. Similarly, fixed costs do not determine the equilibrium price, as they are not part of the equilibrium quantity when market structure is constant in the short-run to medium-run or the demand curve upon which the market clearing price is determined. As the existing stock of greenhouse gases in the atmosphere form the basis of the proposed compensatory payments, these payments are part of the fixed costs of production and thus will not affect current or future variable production costs. See Appendix A for mathematical derivations discussed in this subsection.

Applying Theory to the Oil Industry

Empirical research can help characterize the structures of the two oil markets of interest – the global crude oil market and the New York retail gasoline market. In the global crude market, researchers traditionally classified OPEC as a monopolist (Li, 2010). However, recent empirical evidence points to a Stackelberg oligopoly model holding historically, where OPEC is the dominant firm that leads with its production decisions and non-OPEC producers are a competitive fringe that follow its lead (Li, 2010; Huppmann and Holz, 2010; Golombek et al., 2018). More recent evidence proposes a more competitive global market since the mid-2000s, in which the fracking boom led the United States to be the largest global energy producer and the 2008 financial crisis reduced global oil demand (Huppmann and Holz, 2010; Frondel

⁴ In 2012, ConocoPhillips spun off its midstream and downstream operations into Phillips 66. However, as the Act applies to fossil fuels sold between 2000 to 2018, both companies are likely responsible for emissions during the covered period (ConocoPhillips, 2012). Of the remaining major United States' oil producers, Chevron does not appear to have retail operations in New York (ScrapHero, 2022).

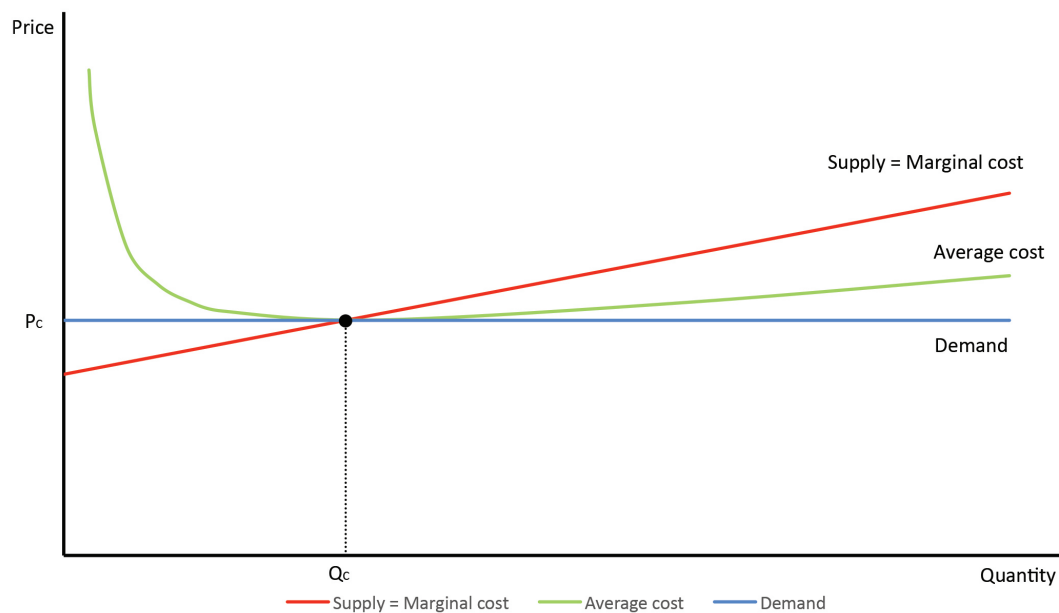
⁵ Specifically, each oil firm increases its quantity produced until the marginal decrease in profits from the resulting price decline is offset by the increase in profits due to a growth in the quantity of the goods demanded.

and Horvath. 2019; Berk and Cam, 2020; Balke et al. 2020). Even then, OPEC still influences prices while non-OPEC producers act as an increasingly important competitive fringe (Frondel and Horvath. 2019). Meanwhile, mixed evidence exists about regional market power at the retail level for gasoline in the United States with only some studies supporting competitive markets (Deltas, 2008; Houde, 2010; Bumpass et al., 2015; Eleftheriou et al., 2019).

Given the wide range of possibilities, this analysis considers several market structures starting from two market structure extremes – a perfectly competitive market and a monopoly. Firms treat the price as given in a perfectly competitive market, such that individual firm’s production decisions do not affect it (Nicholson, 2004, p. 312). In equilibrium, prices equal marginal production costs (see Figure 4). In the case of a monopoly, there is only one firm, which recognizes that it alone influences prices, such that it determines the equilibrium quantity by equating marginal revenue with marginal cost (see Figure 5). As fixed costs, compensatory payments do not influence the equilibrium quantity decision or the corresponding equilibrium price in either of these extreme cases.⁶

Figure 4. Equilibrium Price and Quantity in a Perfectly Competitive Industry.

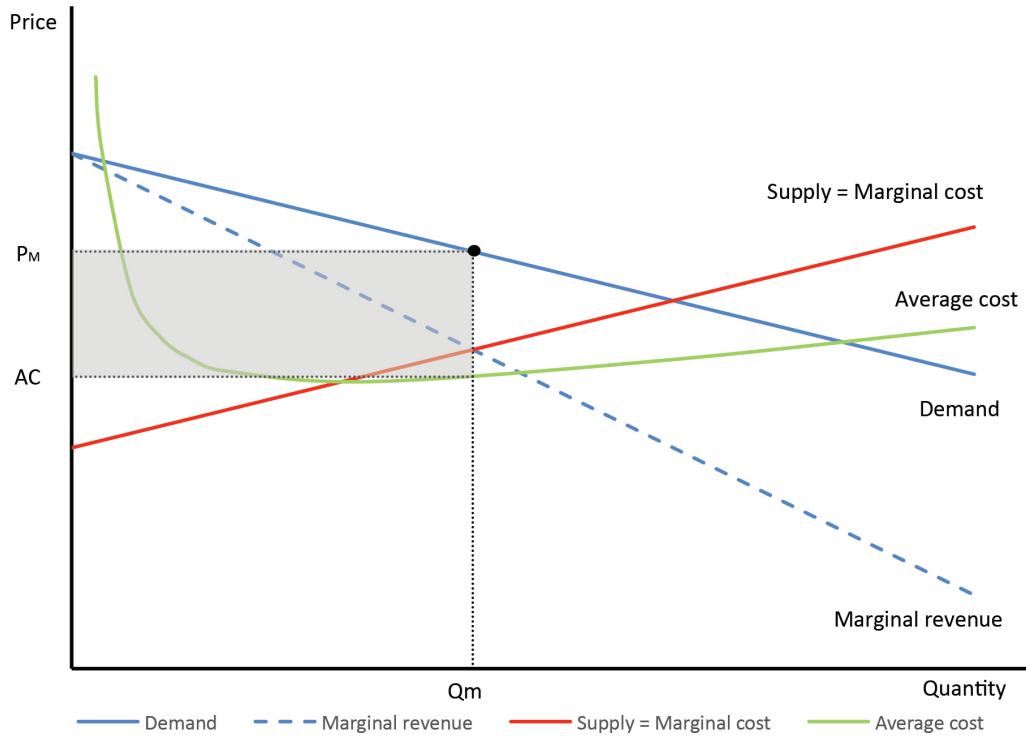
The demand curve in a perfectly competitive industry is horizontal at the market price, P_c , indicating perfectly elastic demand. All firms can sell any quantity at the market price but not at a higher price because of an infinite number of firms in the market. In this figure, total cost is quadratic, such that marginal cost is linear. Total quantity produced in the industry, Q_c , occurs where price equals marginal cost. In a perfectly competitive industry, price also equals average cost in equilibrium, such that there are zero economic profits and firms have no incentive to enter or exit the industry.



⁶ The demand curve is not a function of fixed costs, which are paid by producers.

Figure 5. Equilibrium Price and Quantity for a Monopoly.

A monopoly firm produces at a quantity Q_m that equates marginal revenue and marginal cost to maximize profits. The downward sloping linear demand curve (with half the slope of the linear marginal revenue curve) determines the equilibrium market clearing price P_m . In this figure, total cost is quadratic, such that marginal cost is linear. The firm's profit is represented by the light grey area in the figure.



Unlike these extremes, the New York retail gasoline and global crude oil markets may be more characteristic of oligopoly models, where a limited number of firms with some market power produce an outcome somewhere between the monopoly and perfect-competition equilibriums (Nicholson and Snyder, 2008, p. 523). In the New York retail gasoline market, there are several large retail gasoline companies with market power and no clear market leader, such that all gasoline distributors and retailers in the state make production decisions simultaneously.⁷ Assuming a Nash equilibrium (Perloff, 2008, p. 454),⁸ no firm has an incentive to change its quantities, holding all other firms' decisions constant. Again, compensatory payments do not impact the equilibrium quantities and price as part of fixed costs.

⁷ Companies may exhibit power at a sub-state level in New York, as ExxonMobil does appear to have more gas stations in cities and towns across the state, though any definitive statement is difficult given the incomplete nature of the data available (ScrapHero, 2022). Furthermore, gas stations may have spatial market power due to their strategic geographic location

⁸ In a Nash equilibrium, no firm has the incentive to adjust its quantity produced, as each firm cannot increase its profits if other firms hold their quantities fixed.

In the global crude oil market, empirical evidence supports an oligopoly model where firms make production decisions sequentially instead of simultaneously. Specifically, OPEC is the dominant firm making production decisions prior to other producers and to which non-OPEC firms simultaneously respond by choosing their production quantities following the leader's announcement of a decision (Nicholson and Snyder, 2008, p. 543).⁹ In this sequential decisionmaking framework, compensatory payments still do not impact the equilibrium quantities and prices, given that they are fixed costs. Although it is unclear whether compensatory payments would apply to all or some oil companies in OPEC nations, as discussed in Section 1, the above result applies to the full range of scenarios.

See Appendix B for mathematical derivations discussed in this subsection.¹⁰

3. Oil Industry Consolidation in the Long Run

In the long run, oil firms may enter and exit the industry. Thus, contemplated compensatory payments can potentially affect consumer prices through anticompetitive behavior, as additional consolidation in the market may allow firms to charge excess prices or further increase existing price premiums (Nicholson, 2004, pp. 269-269). However, this kind of consolidation is unlikely empirically given the relatively small size of the payments relative to oil firms' revenue, market capitalization, and profits.

Economic Theory on Exiting the Industry

In the above section, we held constant market structures. In theory, the introduction of compensatory payments and the corresponding increase in fixed costs can decrease firm profits and result in smaller positive profits (see Figure 6) or negative profits (see Figure 7) for assessed firms over the nine-year assessment period. In this latter case, firms may leave the industry in the long run (Nicholson, 2004, p. 205; Perloff, 2008, p. 268-2070; Pindyck and Rubinfeld, 2013, p. 233, 288-290, pp. 293). If an oligopoly holds, the exiting of firms can lead to less oil production and higher oil prices, as the number of firms declines and the remaining firms obtain a higher degree of market power (Nicholson and Snyder, 2008, p. 523). In the extreme case where the oil industry initially consists of only two firms and one goes bankrupt or the other firm purchases it, the consolidation shifts the market equilibrium from a duopoly to a monopoly (see Figure 8). As discussed below, however, this theoretical possibility is highly unlikely in reality.

⁹ It is easy to observe this dominance in the real world where OPEC and OPEC+ meet and announce their production decisions and set production targets (Northam, 2022).

¹⁰ There is an alternative type of oligopoly model in which firms compete by setting prices instead of quantities. We do not discuss this option here, as there is no evidence that it applies to oil companies. Furthermore, the results are comparable to the perfectly competitive case as the firms compete and drive the price down until price equals marginal cost, regardless of the number of firms (Nicholson, 2004, p. 398). Again, compensatory payments as part of fixed costs do not impact equilibrium price or quantity.

Figure 6. Impact of Compensatory Payments on Monopoly Equilibrium with Positive Profits After Shift.

Given the same monopoly firm in Figure 5, the average cost curve shifts up to with the introduction of compensatory payments, as fixed costs increase. Given the unchanged marginal cost despite an increased fixed cost, the equilibrium quantity (Qm') and price (Pm') remains the same as Figure 5 under the equilibrium condition that marginal revenue equals marginal cost. The dark grey area represents the firm's profit in the figure, which remain positive, but smaller than the profits prior to the compensatory payments (the light grey area).

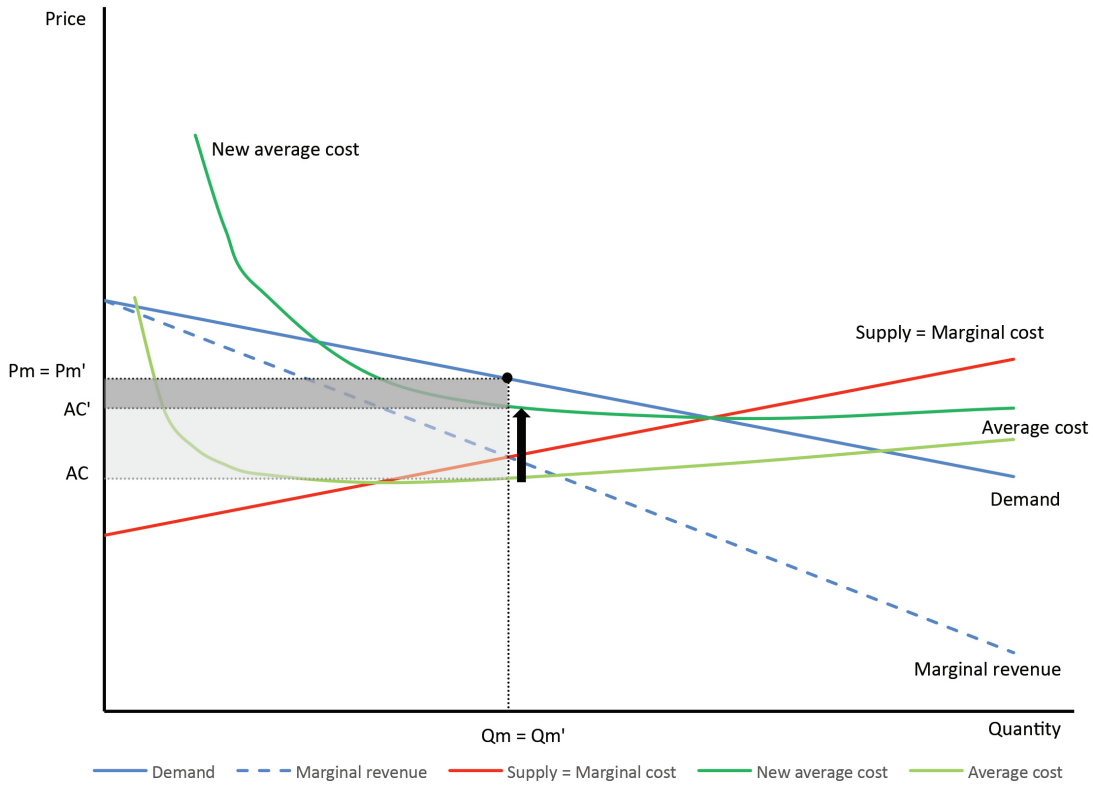


Figure 7. Impact of Compensatory Payments on Monopoly Equilibrium with Negative Profits After Shift.

Given the same monopoly firm in Figure 5, the average cost curve shifts up to with the introduction of compensatory payments, as fixed costs increase. Given the unchanged marginal cost despite an increased fixed cost, the equilibrium quantity (Q_m'') and price (P_m'') remains the same as Figure 5 under the equilibrium condition that marginal revenue equals marginal cost. The dark grey area represents the firm's profit in the figure, which become negative, in contrast to the positive profits prior to the introduction of the compensatory payments (the light grey area).

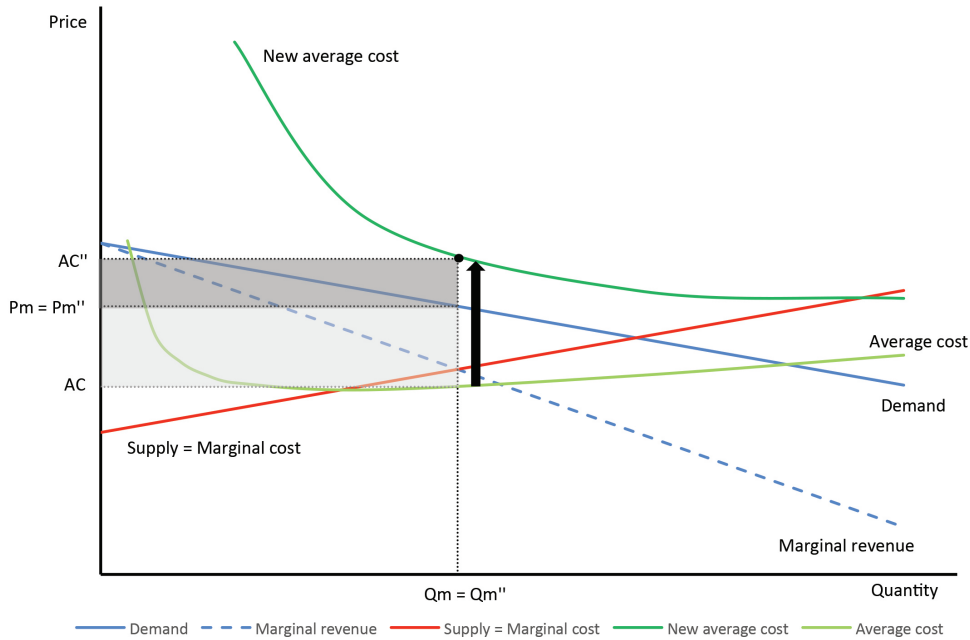
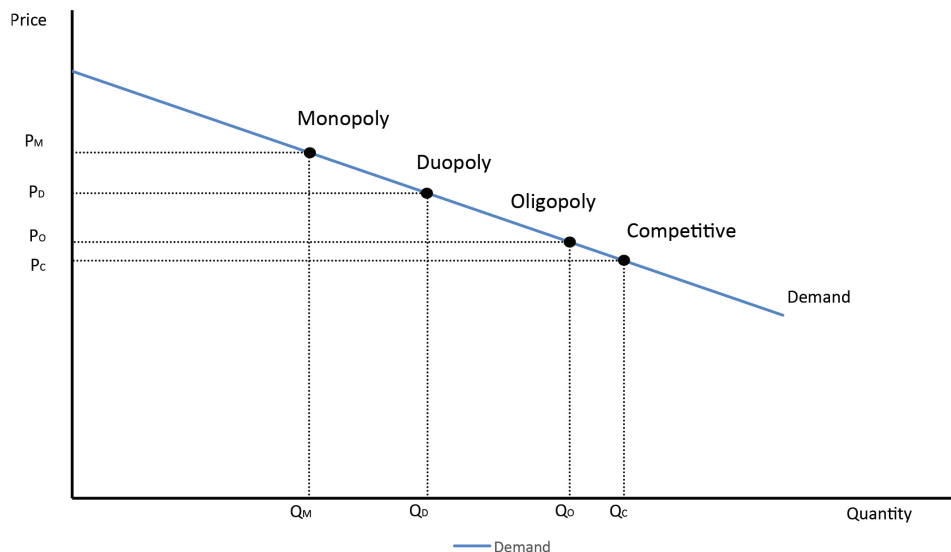


Figure 8. Equilibria by Number of Firms in the Industry.

This figure displays multiple equilibria under different market structures, where the number of firms in the industry is 1 (monopoly), 2 (duopoly), $n > 2$ (oligopoly), and infinite (perfectly competitive), respectively. As the number of firms increases, the remaining firms obtain a lower degree of market power, leading to more oil production and lower oil prices.



Empirical Evaluation of Consolidation Incentives in the Oil Industry

In reality, the proposed compensatory payments are unlikely to lead to any consolidation in the oil industry, regardless of which firms the state assesses.

It is unclear which firms New York will assess the compensatory payments, though the impact on business operations and sector profitability will be minimal given the sector's relative size. Assessed firms' annual operating revenue and profits are likely to be vastly larger than the annual compensatory payments of \$3.3 billion for nine years, regardless of whether the state assesses only U.S. firms or all large oil firms worldwide; see Table 1. For companies operating in New York, which will clearly be assessed, annual compensatory payments represent an upper bound of 5.6% of their average annual profits of \$59 billion from 2010 to 2021 (Sönnichsen, 2022e – 2002i).¹¹ Furthermore, none of these companies' profits would shift from positive to negative, assuming a division of the \$3.3 billion between these companies based on their relative greenhouse gas emissions in 2017 (see Figure 9).¹²

Like revenue, the total compensatory payments of \$30 billion also make up a relatively small share of domestic and international oil firms' market capitalization; see Table 1. The largest American and European oil companies operating in New York have a market capitalization of approximately \$1 trillion; total compensatory payments represent 3.1% of this value. These small shares indicate that the compensation payments will have a negligible effect on firms' major decisions, such as exit or entry, or even smaller decisions, such as operational changes.

Table 1. Relative Size of Compensatory Payments to Oil Firms' Revenues, Profits and Market Capitalization

Economic Indicator		U.S. Oil Firms	Largest U.S. and European Oil firms Operating in NY ^a	All Large Oil Firms Globally
Average Annual Revenue	2022 USD	\$158 billion	Not Available	\$2.6 trillion
	% of annual payments	2.1%		0.1%
	Relevant time-period	2016-2020		2020-2021
Average Annual Profits	2022 USD	\$55 billion	\$59 billion	\$300 billion
	% of annual payments	6.1%	5.6%	1%
	Relevant time-period	2010 to 2021	2010 to 2021	2021 – 2022 ^b
Total Market Capitalization	2022 USD	\$1.3 trillion	\$1 trillion	\$3.8 trillion
	% of total payments	2.4%	3.1%	0.8%
	Relevant time-period	October of 2022	October of 2022	October of 2022

^a Excludes Citgo and 7-Eleven due to lack of data

^b Only first two quarters of fiscal year 2022

Source: Sönnichsen (2021; 2022a – 2002i); Puri-Mirza (2022); Statista Research Department (2022)

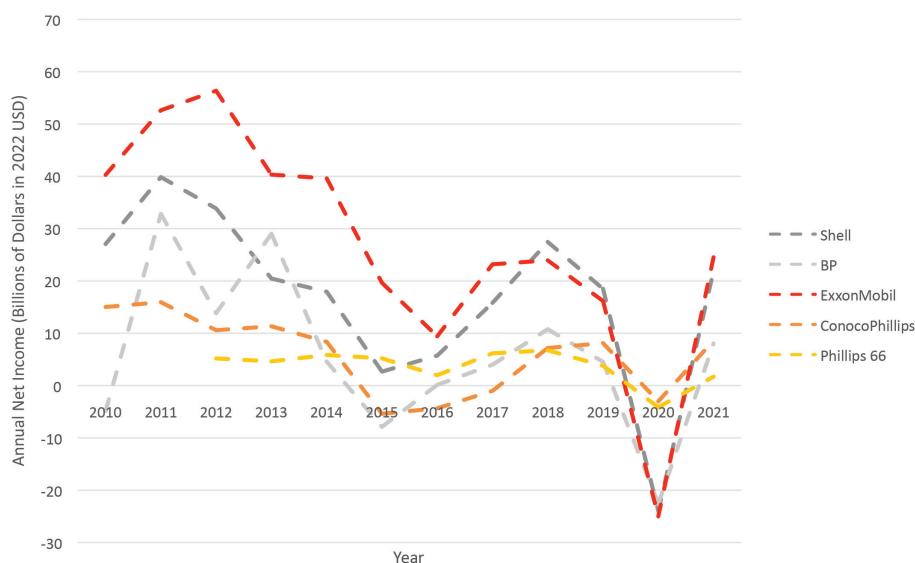
¹¹ Due to lack of data, these calculations excludes Citgo and 7-Eleven.

¹² If we divide annual compensatory payments using relative shares of total greenhouse emissions in 2017, each firm's annual compensatory payments equal between 3.6% and 10.3% of annual average profits between 2010 and 2021. Ideally, this analysis would use greenhouse gas emissions data for each company in every relevant year, but this data is not easily available. To check our results, we redo the calculation using net profits in 2017, which matches the year of our greenhouse gas emissions data. In this case, we find that oil company's annual compensatory payments equal between 5.5% and 15.5% of profits in 2017, except for ConocoPhillips, which earned negative profits in 2017 prior to the implementation of the compensatory payments.

A similar type of analysis can be done using total revenue as a proxy for greenhouse emissions, as long as oil prices and the emission concentrations per barrel of oil are similar across companies. If we divide annual compensatory payments using relative shares of total revenue in 2022, each firm's annual compensatory payments equal between 3.3% and 14.6% of annual average profits between 2010 and 2021. We redo the calculation using net profits in 2021, which matches the year of our total revenue data. In this case, we find that oil company's annual compensatory payments equal between 3.1% and 18.5% of profits in 2021.

Figure 9. Net Income of Largest Oil Companies Operating in New York.

Grey lines represent the profits of the largest foreign oil companies operating in New York, while the red, orange, and yellow lines represent the largest American companies operating in New York. Source: Sönnichsen (2022e – 2002i)



The analysis above almost certainly overestimates oil companies' liability. Critically, the Act's assessments applies to natural gas and coal companies in addition to oil companies, contrary to the assumptions in the calculations above, implying a far smaller assessment on the oil industry. Furthermore, the oil industry recently received record revenues and profits in 2022, exceeding the averages used in the calculations above (Carrington, 2022). Moreover, ongoing rapid inflation will likely lead to further price increases for oil, further eroding the relative share of compensatory payments to the above key indicators.¹³ Finally, the Act further mitigates the likelihood of firms leaving the industry due to negative profits by exempting from compensatory payments those that emitted less than one billion metric tons. Thus, the Act excludes the oil companies operating in New York with the smallest profits margins from payments.¹⁴

Even if a qualifying firm did face net financial losses (i.e., negative profits), that firm would not necessarily be forced out of the market. As seen in Figure 9, individual firms have experienced negative profits in some years, such as 2015 and 2020, though these firms did not leave the market and often earned positive profits in the following years.¹⁵ If firms expect losses to be short lived, as is the case with the proposed compensatory payments that would stretch out to a maximum of nine years, they do not necessarily exit the industry.¹⁶

¹³ General inflation is at 8.2% in the first quarter of 2022, which is its highest rate since the 1970s (US Bureau of Labor Statistics, 2022a). However, energy inflation is much higher at around 20% to 30% depending on the source (United States Bureau of Labor Statistics, 2022a-c).

¹⁴ Using a subset of oil companies operating in New York (Shell, BP, ExxonMobil, Phillips 66, and ConocoPhillips) and the United States (plus, Chevron and Marathon), we find a strong correlation between greenhouse gas emissions (Fletcher et al., 2018) and profits (Sönnichsen, 2022g – 2022l) in 2017. Similarly, we find a positive correlation between profits and revenues for the subset of companies in New York (Shell, BP, ExxonMobil, Phillips 66, and ConocoPhillips) in 2021. As companies face relatively the same oil prices and emission factors, revenue should be a good approximation of emissions. Thus, profits and emissions appear positively correlated for oil companies operating in the United States.

¹⁵ A compensatory payment can only be responsible for negative profits, and thus a firm exiting the industry, if the firm's profits are positive without the payments and negative with them.

¹⁶ "A firm need not always earn a profit in the short-run ... Note that the firm is losing money when its price is less than average total cost at the profit-maximizing output ... In that case, if there is little chance that conditions will improve, it should shut down and leave the industry ... Will shutting down always be the sensible strategy? Not necessarily. The firm might operate at a loss in the short-run because it expect to become profitable again in the future, when the price of its product increases or the cost of production falls." (Pindyck and Rubinfeld, 2013, p. 288-290).

Even if firms did seek to consolidate or exit the industry because of the compensatory payments, their ability may be limited. With respect to consolidation, any attempt to increase market power and force up prices would be regulated by antitrust laws,¹⁷ though the overall incentives for companies to consolidate as a result of the Act are small to non-existent, as discussed above. Furthermore, while firms can avoid certain types of fixed costs in the long run by exiting the market (i.e., unsunk costs), exiting is not a means to avoid compensatory payments according to the current text of the proposed law. Specifically, the law has no bankruptcy or insolvency clause, such that New York will likely collect as a creditor the assessed amount to the greatest extent possible under the law following the example of the EPA (United States Environmental Protection Agency, 2022).¹⁸

Though firms are unlikely to consolidate or exit the industry due to the compensatory payments, some firms may sell assets or take other steps as a reaction to the proposed fees. Firms can accomplish these types of ownership-related transactions without disrupting operations. Indeed, even when they make operational changes, owners of these revenue-generating assets have strong incentives to continue their operations at their profit-maximizing levels.

4. Retaliation

Oil companies assessed compensatory payments may wish to retaliate by raising oil prices in New York State. However, they would be limited in their ability to do so by the interconnectedness of national and global energy markets. First, if oil companies ever retaliated, global oil prices would rise along with New York oil prices as the global marketplace determines wholesale crude oil price. The ability to retaliate would also be limited by competition, as New York is less likely to assess some or all foreign oil firms in the global petroleum market. Moreover, the relatively free movement of oil and other forms of energy implies arbitrage opportunities if oil companies attempt to manipulate regional retail oil prices. Again, if such retaliation occurred, nonlocal oil retailers would likely enter the New York retail market lured by above-average returns created by higher prices pushing New York retail oil prices back towards the existing equilibrium (Perloff, 2008, p. 268-2070; Pindyck and Rubinfeld, 2013, 302-304). Finally, coordinated anti-competitive behavior where multiple firms collude to punish a regulator and its constituents is illegal under New York and federal antitrust laws.¹⁹

5. Expectations

A fourth pathway for compensatory payments to affect prices involves expectations. The imposition of compensatory payments may lead firms to adjust their expectations about future liabilities based on their production in the future.

As the future is uncertain, oil companies make production decisions to maximize expected profits accounting for future company liability (Nicholson, 2004; Perloff, 2008; Pindyck and Rubinfeld, 2013). In this case, an increase in the probability of future liability will decrease the equilibrium quantity produced and vice versa (see Appendix C for mathematical derivations). However, it is unclear how the passage of the proposed Act would affect expectations, and thus, crude oil and retail gasoline prices. If the imposition of these compensatory payments leads firms to anticipate other, future compensatory payments based on their current and future production, the equilibrium quantity will decline as firms expect higher marginal production costs. However, it is unclear how the current action will affect future actions by New

¹⁷ Federal law “prohibits any agreement among competitors to fix prices, rig bids, or engage in other anticompetitive activity.” (United States Department of Justice, 2005). New York State law contains a similar prohibition (New York State Attorney General).

¹⁸ The sufficient connection requirement applies to the covered period of greenhouse gas emissions, i.e., to the 2000 to 2018 period. Therefore, if a large oil company declares bankruptcy in 2023, it would still be sufficiently connected to the state after bankruptcy if it sold gasoline in New York during the covered period.

¹⁹ See footnote 17.

York State (or other entities). Given the ambiguous direction of the signal, there is no strong reason to believe that any anticipation effect would lead to an equilibrium increase in prices.

Reasons for Firms to Expect Liability for Greenhouse Gas Emissions

In fact, oil firms may already have strong reasons to expect liability or regulation beyond New York's regulatory decisions. In particular, the Paris Agreement, existing domestic climate policies, state and local greenhouse gas emission targets, and energy and environmental regulations, provide strong signals that the United States and other nations are taking action on climate change. Economists predict that more aggressive, additional action will be taken relative to current policy (Rennert et al., 2022).

Beyond regulation, many entities have been seeking to hold fossil fuel companies liable for climate impacts (Zhongming et al., 2021), as the public increasingly believes that energy companies are responsible for climate change (Gorbach et al., 2022). The United Nations identified 864 cases of climate litigation across 24 countries in 2017, which increased to 1,550 across 38 countries plus the European Union in 2020. Historically, most cases are in the United States with only a small portion of these cases against corporations, focusing on such topics as corporate liability, disclosure, and greenwashing. As of 2020, more than a dozen corporate liability cases were still active in the United States with no such case yet decided on its merits at that time (Zhongming et al., 2021).

In addition, the United Nations and Organisation for Economic Co-operation and Development (OECD) recognize that climate impacts may represent human rights violations. Likewise, the Philippines Human Rights Commission finds that companies are morally responsible for climate change and legally liable; even if international legal liability does not apply, countries can pass laws and hold entities liable in their domestic legal systems (Benjamin, 2021; Zhongming et al., 2021). These liability lawsuits and other climate litigation may result in additional regulations, delays, bans, and financial costs, including compensation or adaptation requirements (Zhongming et al., 2021). Thus, regardless of whether New York passes the Act, oil companies will rationally assume the possibility of future legal liability for past, current, and future emissions.

Evidence Oil Firms Already Internalizing Liability Risks

Many oil companies, along with an increasing number of firms in the energy sector and beyond, have used “internal carbon prices,” assigning either a real or theoretical monetary penalty for emissions in internal processes such as cost-benefit analyses of investment decisions (Harpankar, 2019; Bartlett et al., 2021). The largest oil companies operating in New York all have internal carbon prices: BP uses \$50/metric ton, increasing to \$100, \$200, and \$250 in 2030, 2040, and 2050, respectively (CDP, 2021a); Shell uses \$125/metric ton with the value increasing as high as \$200 by 2050 depending on the origin country of the project (CDP, 2022); ConocoPhillips uses \$40/metric ton with no variation by geography unless the origin country has a higher price (CDP, 2021b); ExxonMobil reportedly used \$60/metric in the past and planned to increase this amount to \$80/ton, though the company stopped reporting its internal carbon price after being sued for using lower internal carbon prices than reported to shareholders (Schapiro, 2014; Brown, 2018).²⁰ Beyond these New York-based oil companies, many other major oil companies have an internal carbon price, including Chevron, Devon, Total, Ameren, and Excel (Davis, 2013).

²⁰ This lawsuit points to the fact that companies may report these internal prices and not use them. Even then, oil companies never set older carbon prices at levels that would be transformational (Chang, 2017), which may explain why some feel that the values are insufficient (Li et al., 2022).

While companies often have legal, normative, and competitive reasons to adopt internal carbon prices, empirical evidence and company statements indicate that regulatory risk and liability concerns frequently motivate these decisions (Chang, 2017; Harpankar, 2019; Bento and Gianfrate, 2020; Bartlett, 2021; Gorbach et al., 2022; Schapiro, 2014; CDP, 2021a; CDP, 2021b; CDP, 2022).²¹ Often, companies' internal carbon prices are higher than the carbon tax or price used by jurisdictions or countries, as these companies factor in expectations about future regulatory risk (Trinks et al., 2022; Schapiro, 2014). Consequently, internal carbon prices tend to be higher in high-emitting industries with long-run investment cycles, such as the oil, gas, and utilities sectors (Ahluwalia, 2017; Chang, 2017; Bento and Gianfrate, 2020; Bartlett, 2021; Fan et al., 2021; Trinks and Scholtens, 2022).²² In the last five years, the internal carbon prices of oil companies, e.g., BP and Shell, have rapidly increased along with regulatory risks (Schapiro, 2014; Parnell, 2020; Bartlett et al., 2021; Bento and Gianfrate, 2022; Li et al., 2022), which is unsurprising as fossil-fuel companies and utilities are the most regulated sectors of the economy and have strong expectations of future regulation (Bartlett et al., 2021).

Regardless of New York's decision, other entities are likely to ramp up climate regulations and lawsuits. As these pressures continue, oil companies will face higher costs and expected costs, which will potentially reduce the quantity of oil supplied and increase corresponding prices. Given the global nature of this marketplace, the potential for New York to impose a second round of compensatory payments in the future will have little overall impact on the current and future production decisions of oil companies. In fact, many multi-national energy and utility companies likely have already adopted internal carbon pricing assumptions for their New York operations due to regulations in other jurisdictions (Harpankar, 2019; Trinks and Scholtens, 2022), which far exceed the current market price in the New York power sector.²³ Therefore, it appears that the Act will have at most a very limited effect on industry expectations and prices.

6. Impacts of Spending the Revenue

The foregoing analysis focuses on the incidence of compensatory payments and does not account for how the state spends any resulting revenue. The New York State government could spend this revenue in ways that indirectly affect demand or production costs of retail gasoline in New York, which would in turn affect prices. Moreover, if New York legislature does not pass the Act to establish the adaptation fund, taxpayers may need to pay for necessary updates of New York's climate-vulnerable infrastructure (despite their lack of direct responsibility). This in turn has general equilibrium effects by impacting consumer spending, including gasoline demand, as well as consumer welfare implications. We set aside these general equilibrium effects, as the direction of the impact is unclear, except to note that these are secondary in nature.

In addition to general equilibrium effects, the Act places the funds from these proposed compensatory payments into a climate change adaptation fund for green infrastructure (New York State Senate, 2022; Lisa, 2022), which would aid New York in adapting to climate change. To the extent that these funds address the impacts of climate change on the energy sector of New York, energy producers and distributors will have lower marginal costs in the future due to a more

²¹ In addition to the risk of changing regulations and policy, there are also risks of changing social norms and technology (Fan et al., 2021).

²² According to this same research, oil companies and others in high-emitting industries are more likely to adopt internal carbon prices relative to companies in low-emitting industries.

²³ In the power sectors of New York and eleven other Northeastern and Mid-Atlantic states, the Regional Greenhouse Gas Initiative (RGGI) operates and manages a market that sets the market price for carbon dioxide. Specifically, RGGI is a multi-state cap-and-trade program for carbon dioxide emissions from the power sector. The current market price is \$13.45 (RGGI, 2022a; 2022b).

resilient production and distribution system (Howard and Livermore, 2021).²⁴ This translates into lower future energy prices for consumers, including in the transportation sector.

Conclusion

In summary, this analysis finds that the Climate Change Superfund Act will have little to no impact on retail gasoline prices in New York. Economic theory shows that holding oil companies liable for past emissions will not lead to production or price changes in the local, national, or international energy markets, holding the structure of these markets constant. Empirical evidence shows that total compensatory payments for emissions from 2000 to 2018 are relatively small compared to oil company revenue, market capitalization, and profits. Therefore, the Act is unlikely to result in consolidation or bankruptcy within the industry. Expanding beyond market incentives in a static environment to consider dynamic issues, such as leadership and retaliation, the analysis finds that competitive pressures greatly restrict the ability of firms to manipulate prices. Furthermore, while expectations about future liability could impact current oil production and its corresponding price regionally and globally, there is no clear reason to suspect that passing the Act will lead to higher oil prices in the near term.

Finally, it is important to note that levying compensatory payments on companies is not a substitute for policies to reduce future emissions (like carbon pricing or regulations). State and national policies to reduce emissions remain an essential response to the many grave risks associated with climate change. Such policies will lead to higher fossil-fuel prices, though this is necessary to lower demand for pollution-intensive fuels and incentivize the transition away from these fuels.²⁵

²⁴ Economists expect climate change to significantly impact both demand and supply of energy (Howard, 2014). On the demand side, economists expect climate change to decrease energy demand in the winter for heating, while increasing electricity demand in the summer for air conditioning, though studies differ on the estimated net impact for the United States (Clarke et al., 2018; Rennert et al., 2020). In New York, the net impact on oil demand is likely negative from decreased heating (Rode et al., 2021), as New York uses a significant portion of its oil for heating, though the net impact of climate change on oil demand is uncertain due to unobserved feedbacks, behavior changes, and future regulations (Howard and Livermore, 2021). On the supply side, climate change will impact the costs of renewables and fossil fuels, including energy infrastructure used for production, distribution, and generation (Howard and Livermore, 2021). It is difficult to determine the net effects of climate change on the cost of supplying energy, including oil extraction, processing, and distribution, such that the magnitude of the impact is unclear (Howard, 2014). Regardless, adapting to this future will lead to lower marginal costs and prices in the future energy market.

²⁵ If policymakers have concerns about the impact of such policies on citizen welfare, particularly for low-income groups, they can adopt a revenue-neutral, carbon tax. The use of climate dividends can greatly benefit the most disadvantaged groups in society, as they consume the least amount of energy per capita and are the most vulnerable to climate impacts (Carattini et al., 2017).

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Appendices

Appendix A

Economic theory indicates that each oil firm selects their oil production level (q_i) to maximize their profits (Π_i). Profits equal total revenue (TR_i) minus total costs (TC_i), such that firm i 's profit is

$$\Pi_i = TR_i - TC_i = q_i P(Q) - C_i(q_i)$$

where the market price $P(Q)$ is a function of the aggregate quantity of oil produced by all firms Q , total revenue for firm i equals the product of this market price and its quantity produced, i.e., $TR_i = q_i P(Q)$, and total production costs for firm i is a function of firm i 's quantity produced $C_i(q_i)$. The total quantity of oil produced equals the sum of oil produced by all N firms in the oil industry, such that $Q = \sum_{j=1}^N q_j$. Total costs of firm i equal the sum of variable production costs $V_i(q_i)$ and fixed production costs F_i , which are costs that vary and do not vary with firm i 's quantity produced, respectively (Perloff, 2008, p. 205). Therefore, firm i 's profit is:

$$\Pi_i = q_i P \left(\sum_{j=1}^N q_j \right) - V_i(q_i) - F_i.$$

In this static model of firm profits, the Act's proposed compensatory payments would be part of the fixed costs of production, F_i . Because existing stock of greenhouse gases in the atmosphere form the basis of these payments, these payments would not affect current or future variable production costs.

Profit maximization for each firm occurs when the derivative of its profit function with respect to its quantity produced equals zero (Nicholson, 2004, p. 249). Therefore,

$$\frac{\partial \Pi_i}{\partial q_i} = P(Q) + q_i \frac{\partial P}{\partial Q} \sum_{j=1}^N \frac{\partial Q}{\partial q_j} \frac{\partial q_j}{\partial q_i} - \frac{\partial V_i(q_i)}{\partial q_i} = 0$$

where $\frac{\partial V_i(q_i)}{\partial q_i} = MC_i(q_i)$ is the marginal production cost of firm i , i.e., the cost of firm i producing one additional barrel of oil, and $\frac{\partial q_j}{\partial q_i}$ is how firm i perceives the response of firm j to firm i 's quantity decision. With some simplifying assumptions, we can rearrange this expression to the following form:

$$(1) \quad P(Q) + q_i \frac{\partial P}{\partial Q} \left[1 + \sum_{i \neq j} \frac{\partial q_j}{\partial q_i} \right] = MC_i(q_i)$$

where this expression equates the marginal revenue (the left side of the equation and depicted as $MR_i(q_i, Q)$) with the marginal cost of the firm producing one additional unit of quantity (Nicholson, 2004, p. 251; Perloff, 2008, p. 458; Pindyck and Rubinfeld, 2013, p. 285, 288; Nicholson and Snyder, 2008, p. 543). The exact solution depends on the structure of the market, which is characterized by the number of firms and their total cost functions. Even so, fixed costs clearly do not impact the equilibrium quantity, as F_i is missing from the above expression that determines the equilibrium quantity and its corresponding equilibrium price determined on the demand curve.

Appendix B

Firms treat the price as given in a fully competitive market, such that individual firms' production decisions do not affect it (Nicholson, 2004, p. 312). When $\frac{\partial P}{\partial Q} = 0$ in equation (1), $MC_i(q_i) = P(Q)$ determines the equilibrium quantity, where marginal production costs equals the price (Pindyck and Rubinfeld, 2013, pp. 285-287). See Figure 4.

In the case of a monopoly, there is only one firm that recognizes that it can alone influence prices. In this case, the following equation determines the equilibrium quantity:

$$P(Q) + Q \frac{\partial P(Q)}{\partial Q} = MC(Q)$$

where the left-hand side is the marginal revenue change from producing one additional barrel of oil accounting for the additional revenue from one more barrel of oil sold and the resulting decline in price for all other barrels of oil sold. See Figure 5.

Thus, as part of fixed costs, compensatory payments do not influence the equilibrium quantity decision or the corresponding equilibrium price in both extreme cases.

In a Cournot oligopoly model that best represents the New York retail gasoline market, we assume simultaneous decision making and a Nash equilibrium (Perloff, 2008, p. 454). Thus, no firm has an incentive to adjust their production quantity, as each firm cannot increase its profits if other firms hold their quantities fixed. Equivalently, $\frac{\partial q_j}{\partial q_i} = 0$, such that

$$P(Q) + q_i \frac{\partial P}{\partial Q} = MC_i(q_i),$$

Solving for q_i , we derive each firm's optimal response function to other firms' quantity decisions, and then solve for a steady state in which all firms have no incentive to change their quantities holding all other firms' decisions constant. Again, it is clear from the lack of fixed costs that charging oil firms the compensatory payments does not impact the equilibrium quantities and prices assuming that the number of firms is fixed and unaffected by the payments.

In the global crude oil market, empirical evidence supports a Stackelberg oligopoly model, in which OPEC is the dominant firm that moves before the other firms know how to respond. The equilibrium condition for the Stackelberg leader, which we label firm k , is

$$P(Q) + q_i \frac{\partial P}{\partial Q} \left[1 + \sum_{i \neq k} \frac{\partial q_j}{\partial q_k} \right] = MC_i(q_i)$$

where $\frac{\partial q_j}{\partial q_k}$ is firm j 's best response function to firm k 's quantity decision. The equilibrium condition for the non-dominant firms matches the Cournot equilibrium in the previous paragraph (Nicholson and Snyder, 2008, p. 543). Again, fixed costs do not enter the optimization decision. Given the dynamic nature of Stackelberg equilibria, this also points to the generality of these results moving from static to dynamic equilibria holding the market structure constant over time (Perloff, 2008, pp. 506-507).

Above all, compensatory payments and fixed costs do not determine equilibrium quantities of firms or the equilibrium price in the short-run to medium run when market structure is constant, regardless of this structure. As these oil companies engaged in a past course of conduct that contributed to current harm, the compensatory payments act as a levy based on that ongoing harm, whereas the historical nature of the conduct eliminates any forward-looking incentive for companies to change their behavior. Thus, the profit-maximizing quantities and prices of retail gasoline would remain unchanged by the Act.

Appendix C

As the imposition of compensatory payments may lead firms to adjust their expectations about future payments, firm i maximizes their expected profits as follows:

$$\max_{q_i} \mathbf{E}(\Pi_i) = \max_{q_i} \sum_{m=1}^2 \rho_m \left[q_i P \left(\sum_{j=1}^N q_j \right) - V_i(q_i) - F_{i,m} \right]$$

where $F_{i,m}$ is the fixed cost conditional on future company liability and ρ_m is the probability of event m occurring where there are only two possible states: no future liability ($m=1$) and future liability ($m=2$). Specifically, fixed costs are a function of two terms

$$F_{i,m} = F_i + \vartheta_m \frac{q_i}{Q}$$

where ϑ_m is oil company's future climate liability that equals zero in the first state and some positive amount in the second state. Note that this latter term is not really fixed any longer, and instead varies with quantity.

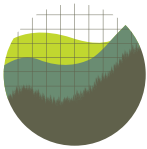
The following equation shows that a change in expectations, as reflected in a change in the probability of future liability, can impact the current optimal production decision under uncertainty. The first order condition for profit maximization equals

$$\frac{\partial \mathbf{E}(\Pi_i)}{\partial q_i} = \sum_{m=1}^2 \rho_m \left[P(Q) + q_i \frac{\partial P}{\partial Q} \sum_{j=1}^N \frac{\partial Q}{\partial q_j} \frac{\partial q_j}{\partial q_i} - \frac{\partial V_i(q_i)}{\partial q_i} - F_i - \vartheta_m \left[\frac{Q - q_i}{Q^2} \right] \right] = 0$$

where $\vartheta_1 = 0$ and $\vartheta_2 > 0$. If the Act affects oil company's expectations about the probability of the future likelihood of climate liability, then

$$\frac{\partial \mathbf{E}(\Pi_i)}{\partial q_i \partial \rho_2} = -\vartheta_2 \left[\frac{Q - q_i}{Q^2} \right] < 0$$

Thus, actions that increase in the probability of future liability will decrease the equilibrium quantity produced. Vice versa, actions that decrease the probability of future liability will increase the equilibrium quantity produced. The latter appears more likely, though a more conservative assumption would be that the probability is constant and unaffected by New York's decision to pass the Act.



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December 20, 2024

The Honorable Katie Fry Hester
Maryland Senate
304 James Senate Office Building
Annapolis, Maryland 21401
Via email

RE: RENEW Act of 2025

Dear Senator Hester:

You have requested a letter of advice regarding potential legal challenges to a revised draft of the Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025, which is similar to Senate Bill 958 of 2024 and Senate Bill 843 of 2023, both of which did not pass. You have also asked whether certain additions to the 2025 bill will strengthen a potential legal defense of the bill.

In my view, if the 2025 bill is enacted, it will very likely face legal challenges under the Commerce, Due Process, and/or Supremacy Clauses, though it is difficult to predict whether such challenges will be successful. Similar bills passed in Vermont, Vt. Stat. Ann. tit. 10, §§ 596 *et seq.*, and New York ("Climate Change Superfund Act," S02129, not yet signed into law), have not yet been addressed by the courts. However, it is my view that some of the additions made to the 2025 bill, particularly the requirement that certain State agencies conduct a study to determine the costs incurred by the State to inform the amount of the cost recovery demand, will make the bill more defensible. I have included my analyses of potential legal challenges below.

Commerce Clause/Extraterritoriality

Because the bill could impose fees on entities engaging in fossil fuel extraction or petroleum refining anywhere, not just Maryland, it raises the issue of extraterritoriality and legislative jurisdiction. Stemming from both the dormant Commerce Clause and the Due Process Clause of the U.S. Constitution, the principle of extraterritoriality limits the State's ability to

regulate, or as relevant here, impose fees on, an out-of-State entity or conduct that takes place outside Maryland. Analogizing the payments required under the RENEW Act to taxes, there must be a “nexus between the taxing State and the taxpayer,” *i.e.*, “some definite link, some *minimum connection*, between a state and the person, property or transaction it seeks to tax.” *Adventure Commc’ns, Inc. v. Kentucky Registry of Election Fin.*, 191 F.3d 429, 436-37 (4th Cir. 1999) (quoting *American Oil Co. v. Neill*, 380 U.S. 451, 458 (1965)). Physical presence in the state is not required; due process requires simply that the taxpayer “purposefully direct” activities at and develop “sufficient contacts” with the taxing state so that imposing the tax is “not unfair.” *Id.* Similarly, to withstand a dormant Commerce Clause challenge, state taxes impacting interstate commerce must (1) be applied to an activity with a substantial nexus with the taxing State, (2) be fairly apportioned, (3) not discriminate against interstate commerce, and (4) be fairly related to the services provided by the State. *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977); *see also Ctr. for Auto Safety Inc. v. Athey*, 37 F.3d 139, 142 (4th Cir. 1994) (applying similar, but not identical, test to state fees).¹

Ultimately, in my view, an extraterritoriality argument would be rather weak because the bill does not directly regulate the *conduct* of the covered entities. *See Sam Francis Found. v. Christies, Inc.*, 784 F.3d 1320, 1324 (9th Cir. 2015) (distinguishing state-imposed taxes from state law that regulated conduct); *see also VIZIO, Inc. v. Klee*, 226 F. Supp. 3d 88, 100 (D. Conn. 2016), *aff’d*, 886 F.3d 249 (2d Cir. 2018) (rejecting Commerce Clause extraterritoriality claim against Connecticut’s E-Waste Law, which used national market share data to assess manufacturers a share of cost for state’s electronics recycling program, regardless of whether manufacturer made direct sales in Connecticut). In addition, the 2025 bill requires a minimum connection between Maryland and the responsible party. The bill’s definition of “responsible party” excludes “any person that lacks sufficient connection with the state to satisfy the nexus requirements of the United States Constitution.” Proposed Environment Article (“EN”) § 2-1701(t)(2). The 2025 bill also adds the following:

- (A) THE STATE MAY IMPOSE COST RECOVERY DEMANDS ON A RESPONSIBLE PARTY IF, AT ANY TIME DURING THE COVERED PERIOD, THE RESPONSIBLE PARTY:
- (1) DID BUSINESS IN THE STATE;
 - (2) WAS REGISTERED TO DO BUSINESS IN THE STATE;
 - (3) WAS APPOINTED AS AN AGENT OF THE STATE; OR
 - (4) OTHERWISE HAD SUFFICIENT CONTACTS WITH THE STATE TO GIVE THE STATE JURISDICTION OVER THE RESPONSIBLE PARTY IN ACCORDANCE WITH STATE LAW.

Proposed EN § 2-1704(a). These additions make the bill more defensible on its face as they expressly require certain contacts with the State; however, individual “responsible parties” that

¹ *See also* Letter of Support for Senate Bill 958 of 2024 from Tiffany Johnson Clark, Chief, Legislative Affairs, Office of the Attorney General to the Honorable Brian J. Feldman Chair, Education, Energy, and the Environment Committee, and the Honorable Pamela Beidle Chair, Finance Committee (Feb. 20, 2024) (noting that “the bill should be applicable only to an entity that actually sells its product in the State, mines raw materials in the State, or its product is consumed in the State, even if all their emissions don’t occur in Maryland to ensure there is sufficient nexus to the State”).

operate on a national or global scale will likely argue that their activities do not, as a factual matter, have a sufficient Maryland nexus to justify State regulation or establish State jurisdiction.

Furthermore, the new requirement for a study to determine the costs of greenhouse gas (“GHG”) emissions that the State has incurred will make for a stronger defense against a potential dormant Commerce Clause claim to the extent it can show that the imposed fees relate to the services provided by the State.

Due Process Clause

The 2025 bill is also likely to face challenges under the Due Process Clause because it imposes large fees that would apply retroactively from 1994 to 2023. The retroactive application of the RENEW Act need only be “justified by a rational legislative purpose,” *United States v. Sperry Corp.*, 493 U.S. 52, 64 (1989), and challengers must prove the legislature acted in “an arbitrary and irrational way” to be successful. *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 15 (1976). Due process challenges like these succeed only “in the rarest of cases.” *Commonwealth Edison Co. v. United States*, 271 F.3d 1327, 1345 (Fed. Cir. 2001). The U.S. Supreme Court has upheld retroactive laws involving remedial payments. *See Sperry Corp.*, 493 U.S. at 65 (“It is surely proper for Congress to legislate retrospectively to ensure that costs of a program are borne by the entire class of persons that Congress rationally believes should bear them.”); *see also Usery*, 428 U.S. at 18 (finding that “the imposition of [retroactive] liability for the effects of disabilities bred in the past is justified as a rational measure to spread the costs of the [coal mining] employees’ disabilities to those who have profited from the fruits of their labor the operators and the coal consumers”). And more specifically, courts have upheld laws requiring payments from companies that contributed to harmful environmental impacts, even if the company was engaging in legal conduct at the time of the harm-causing activity. *See, e.g., United States v. Monsanto Co.*, 858 F.2d 160, 174 (4th Cir. 1988) (“While the generator defendants profited from inexpensive waste disposal methods that may have been technically “legal” prior to CERCLA’s enactment, it was certainly foreseeable at the time that improper [chemical waste] disposal could cause enormous damage to the environment.”).

“[T]he imposition of even severe retroactive obligations for past acts will be found rational ... if two conditions are satisfied: (1) [the legislature] reasonably concluded that the party subjected to retroactive obligations benefited from activity that contributed to a societal problem, and liability is not disproportionately imposed on that party; and (2) the imposition of retroactive liability would not be contrary to that party’s reasonable expectations.” *Commonwealth Edison Co.*, 271 F.3d at 1346. Here, a legislative record buttressed by the 2025 bill’s required study and any additional facts that demonstrate the costs to the State and how the “responsible parties” conduct within the covered period has impacted the State could make the retroactive application more defensible, as could any facts showing that the “responsible parties” knew of the potential problems when they engaged in the activity and could reasonably expect the assessments—for example, evidence considered in connection with the 1992 United Nations Framework Convention on Climate Change. *See Commonwealth Edison Co.*, 271 F.3d at 1348.

The 2025 bill might also be challenged as unconstitutionally disproportionate to the extent it would require certain companies to pay large amounts for impacts not solely traceable to them.

To my understanding, under the current 2025 bill draft, the total assessed cost used in the denominator of the cost recovery demand ratio is equal to the cost of *all* GHG emissions—even those caused by fossil fuel companies or other sources not covered by the law—yet that total cost will be divided only among the “responsible parties.” Again, this due process argument would hinge on showing the bill was arbitrary and lacking rational basis. Exempting foreign entities lacking a Maryland nexus alone would likely not make the law unconstitutionally disproportionate, as long as the evidence shows some tie or rational basis between the responsible parties’ activity and their share of the cost recovery demand. *See Commonwealth Edison Co.*, 271 F.3d at 1347 (finding no due process violation where the domestic utilities (and not foreign utilities) were obligated to pay about a third of the remediation costs for uranium enrichment processing plants where evidence showed production of the plants been divided almost evenly between the government and commercial sectors). Evidence in the legislative record showing the General Assembly’s reasons for applying the cost recovery demand in this way, including any data as to attribution to “responsible parties,” will be key in defending the bill from such legal challenges.

Preemption Under the Clean Air Act

Challengers are also likely to claim the RENEW Act is preempted by the federal Clean Air Act, and other concepts such as federal common law or the foreign-affairs doctrine. The Supremacy Clause of the U.S. Constitution provides that “[t]his Constitution, and the Laws of the United States... shall be the supreme Law of the Land ... any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” Art. VI, cl. 2. I expect it might be argued that the bill is an attempt to regulate international or interstate greenhouse gas emissions, rather than a mechanism to recover costs incurred by the State, and is thus outside the realm of State regulation or that the Clean Air Act provides the exclusive process for seeking a remedy.

In somewhat analogous ongoing civil cases brought by states and local governments across the country involving common law tort claims against oil companies for their role in climate change damages, some courts have held that the Clean Air Act does *not* preempt state law nuisance, deceptive marketing, and other common law tort claims, including strict liability claims. *See, e.g., Mayor & City Council of Baltimore v. BP P.L.C.*, 31 F.4th 178, 208, 217 (4th Cir. 2022), *cert. denied*, 143 S. Ct. 1795 (2023) (considering “complete” preemption in the context of whether the case should be removed to federal court); *City and County of Honolulu v. Sunoco LP*, 537 P.3d 1173 (Haw. 2023), *cert. petition docketed*, No. 23-947 (U.S. Mar. 1, 2024) (holding that because the plaintiff’s claims arise from the oil companies’ alleged failure to warn and deceptive marketing conduct, not emissions-producing activities regulated by the Clean Air Act, the statute did not preempt the claims). But in these cases, the courts emphasized the difference between plaintiffs’ deceptive marketing claims and the Clean Air Act’s intended scope. Other courts considering the same issues have reached the opposite conclusion. *See City of New York v. Chevron Corp.*, 993 F.3d 81, 92 (2d Cir. 2021) (holding that a similar lawsuit brought by New York City is “simply beyond the limits of state law”).

Earlier this year, a Baltimore City Circuit Court dismissed a similar case on preemption grounds after determining that the realm of international GHG emissions is preempted by federal common law and that regulation of domestic interstate emissions are preempted by the Clean Air Act. *Mayor & City Council of Baltimore v. BP P.L.C., et al.*, Case No. 24-C-18-004219, 10-19

(Balt. Cit. Cir. Ct. (July 10, 2024) (opinion attached). Though the decision has been appealed and this opinion would not be binding on other Maryland courts, and the claims analyzed are not identical to this bill, the Baltimore court's analysis demonstrates the risk that the proposed legislation could be found to be unconstitutional under the Supremacy Clause to the extent challengers could successfully frame the bill as an attempt to regulate GHG emissions that is contrary to the Clean Air Act or other federal directive. Potential future decisions by the Maryland appellate courts or the U.S. Supreme Court in pending cases could impact my analysis on this issue.

I hope this letter is responsive. Please let me know if you have any further questions.

Sincerely,

A handwritten signature in cursive script that reads "Natalie Bilbrough".

Natalie R. Bilbrough
Assistant Attorney General

MAYOR AND CITY COUNCIL
OF BALTIMORE,

Plaintiff,

v.

BP P.L.C., et al.,

Defendants.

*

IN THE

*

CIRCUIT COURT

*

FOR

*

BALTIMORE CITY

*

Case No.: 24-C-18-004219

* * * * *

MEMORANDUM OPINION AND ORDER

There is no question that global warming and climate change are wreaking havoc on our environment. It is quite possible that this world, this country and, perhaps, this City have reached the point of no return in addressing the effects of global gas emissions and climate change. According to the United Nations Intergovernmental Panel on Climate Change, massive incidents of floods, drought, heat waves, etc. will continue if there are not significant and drastic measures taken to decrease the use of fossil fuels. Daniel Brigham, *The Making of the Clean Air Act*, 71 *Hastings L. J.* 901 (2020). Global warming is the long-term warming of the planet’s overall temperature due to human activities, “namely the impact of urbanization and [primarily] the burning of fossil fuels.” Alexa Austin, *Cleaning Up the Confusion: Climate Change Litigation and Preemption*, 10 *Joule: Duquesne Energy & Env’t L. J.* 6 (2022). It is debatable whether the damage that has already been done by the world’s overuse and misuse of fossil fuels can be reversed. Scientists have concluded that the earth’s global average temperature has increased by 1.8 degrees Fahrenheit. *Id.* Global warming, which is experienced worldwide, has been evidenced by unstable temperatures, rising sea levels, extreme storms and heatwaves resulting in infrastructure damages and public health problems.

Baltimore, like many jurisdictions across the country, is concerned about the present effect and future threat of climate change. To that end, in July 2018, the Mayor and City Council of Baltimore (“Baltimore”) filed suit against twenty-five (25) major national and international fossil fuel companies¹ (“Defendants”) alleging that these Defendants are individually and collectively responsible for a substantial portion of the total greenhouse gases emitted in the world. *See generally* Baltimore’s Complaint (“Compl.”). Every person, household and business, including government agencies, use gas and electricity – whether traveling in private or public vehicles, buses or subway trains, or heating their homes and/or offices. Baltimore alleges that the Defendants must be held accountable for deceiving consumers by disseminating misleading information that undermined the scientific community’s consensus about climate change which led to the overuse of fossil fuels around the world. *Id.* According to Baltimore, the Defendants have known for nearly a half century that unrestricted production and use of their fossil fuels have created greenhouse gas pollutions that have warmed the planet and changed the climate not only throughout the world but particularly in Baltimore. Compl. ¶¶ 1, 5. Instead of sharing their knowledge, Defendants deployed a sophisticated campaign of deception to misrepresent and conceal their products’ risks. *Id.* Baltimore places at the feet of the Defendants the responsibility for injuries suffered in the past and for injuries predicted in the future because of increased use of Defendants’ fossil fuels. Each Defendant’s conduct has contributed substantially to the buildup of CO² in the environment that drives global warming and its physical, environmental and socioeconomic consequences. *Id.* at ¶ 6. Namely, Baltimore alleges that it has suffered climate

¹ BP P.L.C., BP America Inc., BP Products North America Inc., Chevron Corp., Chevron USA Inc., CITGO Petroleum Corporation, CNX Resources Corp., CONSOL Energy Inc., CONSOL Marine Terminals LLC, ConocoPhillips, ConocoPhillips Co., Louisiana Land & Exploration Co. LLC, Crown Central LLC, Crown Central New Holdings LLC, Exxon Mobil Corp., Exxon Mobil Oil Corp., Hess Corp., Marathon Petroleum Corp., Speedway LLC, Marathon Oil Corp., Marathon Oil Co., Phillips 66, Phillips 66 Co., Shell PLC., Shell USA, Inc.

change related injuries such as sea level rise, increased frequency and severity of extreme precipitation events, increased frequency and severity of drought, increased frequency and severity of heat wave and extreme temperatures, and consequently social and economic injuries associated with those physical and environmental changes. *See generally* Compl. and *Mayor & City Council of Baltimore v. BP P.L.C.*, 31 F.4th 178, 195 (4th Cir. 2022) (“*Baltimore IV*”) (quoting J.A. 92, 140-41). Baltimore complains that because of Defendants’ actions (or inactions) these climate related injuries have caused infrastructure damages and public health issues throughout Baltimore. Baltimore’s Complaint asserts eight causes of action: (Counts 1-2) public and private nuisance; (Counts 3-4) strict liability failure to warn and strict liability for design defect; (Counts 5-6) negligent design defect and negligent failure to warn; (Count 7) trespass; and (Count 8) violations of the Maryland Consumer Protection Act (“MCPA”).

PROCEDURAL CONTEXT

In July of 2018, Baltimore filed its original complaint in the Circuit Court for Baltimore City. In August of 2018, Defendants filed a notice of removal to the U.S. District Court of Maryland. Baltimore subsequently moved to remand the matter to state court. On June 10, 2019, the U.S. District Court of Maryland² granted Baltimore’s motion and remanded the case to the Circuit Court for Baltimore City. Defendants appealed. Pending appeal, Defendants filed their initial Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted (#66) on February 7, 2020.³ The U.S. Court of Appeals for the Fourth Circuit affirmed⁴ the U.S. District Court’s decision to remand the matter to state court on March 6, 2020. Defendants filed a petition for certiorari which was granted. On August 6, 2020, this court stayed the instant

² 388 F. Supp.3d 538.

³ Additional motions were filed at this time but not addressed in this memorandum.

⁴ 952 F.3d 452.

matter pending the decision on the petition for certiorari. The United States Supreme Court vacated and remanded the case for consideration of Defendants' (remaining) theories of removal.⁵ On remand, the Fourth Circuit affirmed the U.S. District Court of Maryland and remanded the matter to the Circuit Court for Baltimore City. *Baltimore IV*, 31 F.4th 178 (2022). Again, Defendants filed a petition for certiorari which was denied. *Baltimore IV*, 31 F.4th 178 (2022), *cert. denied*, 143 S. Ct. 1795, 215 L. Ed.2d 678 (2023). On May 12, 2023, this court lifted the August 6, 2020 stay. A remote status conference was held on August 4, 2023. At the conference, Defendants orally motioned for permission to re-brief its motions to dismiss⁶ and to allow the filing of individual defense motions.⁷ The motions were granted. (#183).

On October 16, 2023, Defendants filed Defendants' Motion to Dismiss Plaintiff's Complaint for Failure to State a Claim Upon Which Relief Can Be Granted (#199)⁸ which included an accompanying Memorandum (Defs.' Mot.). On January 23, 2024, Baltimore filed Plaintiff Mayor and City Council of Baltimore's Memorandum of Law in Opposition to Defendants' Motion to Dismiss for Failure to State a Claim (#199/7) (Pl.'s Opp'n). On January 29, 2024, Defendants filed their Reply Memorandum in Support of Defendants' Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted. (#199/8) (Defs.' Reply). On February 12, 2024, Baltimore filed Plaintiff Mayor and City Council of Baltimore's Motion for Leave to File Sur-reply in Opposition to Defendants' Motions to Dismiss (#232), which was denied on January 8, 2024. A remote electronic hearing was conducted on the

⁵ 539 I.S. 230; 141 S.Ct. 1532 (2021).

⁶ Defendants requested allowance to re-brief both the motion to dismiss for failure to state a claim and motion to dismiss for lack of personal jurisdiction.

⁷ Baltimore agreed to allow Defendants to re-brief its joint motion but opposed the request to file individual motions to dismiss.

⁸ Other preliminary motions were filed (jointly and individually), however, they are not addressed in this memorandum.

Defendants' Motion to Dismiss Plaintiff's Complaint for Failure to State a Claim Upon Which Relief Can Be Granted (#199) on March 12, 2024 before the Honorable Videtta A. Brown.

STANDARD OF REVIEW

Defendants move to dismiss the complaint filed by Baltimore pursuant to Maryland Rule 2-322 (b)(2). In considering a motion to dismiss for failure to state a claim upon which relief can be granted, this court must assume the truth of all well-pleaded relevant and material facts in the complaint as well as all inferences that reasonably can be drawn therefrom. *Stone v. Chicago Title Ins. Co.*, 330 Md. 329, 333 (1993); *Tadger v. Montgomery Cty.*, 300 Md. 539, 542 (1984). The facts comprising the cause of action must be pleaded with sufficient specificity. Bald assertions and conclusory statements by the pleader will not suffice. *Continental Masonry Co. v. Verdel Constr. Co.*, 279 Md. 476 (1977). However, dismissal is proper only if the alleged facts and permissible inferences, so viewed, would, if proven, nonetheless fail to afford relief to the plaintiff. *Morris v. Osmose Wood Preserving*, 340 Md. 519, 531 (1995).

DISCUSSION

On motion, Defendants raise several challenges to Baltimore's complaint which they pray demands dismissal: (1) Baltimore's claims are preempted by federal common law; (2) Baltimore's state law claims are preempted by the Clean Air Act; (3) Baltimore's claims raise nonjusticiable political questions; (4) Maryland laws require dismissal of Baltimore's claims in that (a) Baltimore fails to allege a claim for public and private nuisance; (b) Baltimore's failure to warn claims fail because Defendants had no duty to warn; (c) Baltimore's design defect claims fail because Baltimore fails to allege any design defect; (d) Baltimore's trespass claim is not adequately plead; and (e) Baltimore fails to adequately allege a Maryland Consumer Protection Act ("MCPA") claim. *See generally* Defs.' Mot.

Several states and municipalities have filed lawsuits against fossil fuel companies seeking abatement and/or compensation under the (novel) theory that these companies' extraction, production, promotion, marketing, and sale of fossil fuels has contributed to the increase in fossil fuel use and contributed to global climate change resulting in injury to plaintiffs' infrastructures. In each case, the question has been whether these cases can and should be tried and resolved in state court or whether the federal court and/or Congress should resolve the matters.

Commentators and scholars have noted that these cases have come to State court because of the difficult policy challenges and the federal government's reluctance to address climate change.

“[A] combination of...elements would make climate change difficult for any institution to address, but the particular circumstances and structure of the federal government make it especially ill-suited to do so. For one thing, the United States is one of the most powerful nations in the world. It is also the largest historical emitter of GHGs [greenhouse gases]. Together, these facts make it unlikely that the United States will voluntarily commit itself to significantly scaling back its emissions or that another group of nations will succeed at compelling it to do so. This problem is worsened by the fact that Congress and executive agencies face a high risk of legislative and regulatory capture, a risk that is particularly acute in the realm of climate and energy policy, where huge international companies wield more power than do many nations.”

Climate Litigation-Federal Preemption of State Law-Ninth Circuit Finds That State Public Nuisance Claims Against Fossil Fuel Producers Are Not Completely Preempted By Federal Law, 134 Harv. L. Rev. 1897, 1901-02 (2021).

To further complicate this court's consideration of the issues presented here, federal and state courts have differed greatly in their opinions on the same or similar issues. The divergent opinions rested on how each court characterized the complaint. Some recent decisions on these issues have been articulated in *City of New York v. Chevron Corporation*, 993 F.3d 81 (2021) (“NYC”); *City & Cnty. of Honolulu v. Sunoco, LP.*, 153 Haw. 326 (2023) (“Honolulu”), *State ex rel. Jennings v. BP Inc.*, 2024 WL 98888 (Del. Super. Ct. Jan. 9, 2024) (“Delaware”), and *City of Oakland v. BP PLC*, 969 F.3d 895 (9th Cir. 2020) (“Oakland”). Summarily, the NYC and

Delaware courts granted motions to dismiss finding that the city’s claims were preempted by federal common and federal statutory law while the *Honolulu* court denied a motion to dismiss finding that state claims were not preempted by federal common or statutory law.

In this matter, Baltimore agrees with and relies on the *Honolulu*⁹ decision and the Defendants agree with and rely on the *NYC* and *Delaware* decisions. In reading each case opinion it is clear that the characterization of the plaintiff’s complaint guided the court’s analysis. *Honolulu* (relying on language used in *Baltimore IV*) and Baltimore say its complaint(s) only concern the production, promotion and sale of fossil fuels and not the regulation of emissions. They opine that the complaint(s) focus only on the tortious marketing conduct of Defendants. *Baltimore IV*, 31 F.4th at 217 and *Honolulu*, 153 Haw. at 354. *NYC* interpreted the complaint under its consideration as a suit over global greenhouse emissions and held that the allegations of deceptive promotion and marketing of Defendants’ products is simply artful pleading. “Artful pleading cannot transform the City’s complaint into anything other than a suit over global greenhouse emissions.” *NYC*, 993 F.3d at 91.

This court aligns itself with the reasoning and decision articulated in *NYC* and **GRANTS** the Defendants’ Motion to Dismiss Plaintiff’s Complaint for Failure to State a Claim Upon Which Relief Can Be Granted (#199) for the following reasons:

QUESTIONS PRESENTED

1. *Are Baltimore’s claims preempted by federal common law and/or the Clean Air Act (CAA)?*¹⁰

⁹ Baltimore also relies on the 4th Circuit’s opinion in *Mayor and City Counsel of Baltimore v. BP P.L.C.*, 31 F. 4th 178 (2022) (*Baltimore IV*). However, that Court addressed removal jurisdiction.

¹⁰ The discussion of questions 1 and 2 will be addressed simultaneously. Question 3 will not be addressed in light of the court’s decision on questions 1 and 2.

Although Baltimore characterizes its Complaint as only addressing the alleged promotion and sale of fossil fuel products and the concealment and misrepresentation of the products' known dangers, Defendants argue that fundamentally Baltimore alleges that its injuries are caused by anthropogenic greenhouse gas emissions. Defs.' Mot. 7. Defendants argue that regardless of how the complaint is framed, the suit plainly seeks damages for alleged harms caused by gas emissions from all over the world and interstate pollution is governed by federal common and statutory law. Only federal law can govern claims based on foreign emissions, and foreign policy concerns foreclose any state law remedy. *Id.* at 13. Defendants argue that because Baltimore seeks damages for alleged harms caused by interstate and international emissions, (1) its claims cannot be governed by state law and (2) federal law governs and preempts state law claims seeking damages for interstate emissions. Under the Constitution's structure, matters that involve interstate controversies cannot be handled in state court under state law. *Id.* at 9-10. Defendants further assert that Baltimore's claims involve uniquely federal interests that are committed by the Constitution to federal control preempting any state law. *Id.* at 9 (citing *Boyle v. United Techs. Corp.*, 487 U.S. 500, 504 (1988)). "These exclusively federal areas include "interstate and international disputes implicating the conflicting rights of States." *See Id.* (citing *Texas Indus. v. Radcliff Materials*, 451 U.S. 630, 640-641(1981)). Defendants recognize that Congress has displaced federal common law with the Clean Air Act (CAA), however, they argue that that displacement does not allow state law to govern matters (foreign emissions) that it was never competent to handle. Defs.' Mot. 12. Because the CAA does not regulate foreign emissions, federal law is still required – and still exists – to settle such disputes, thereby preempting state law claims sounding in global emissions. Defendants plainly posit that federal common law has not been displaced with respect to foreign emissions. Defs.' Reply 6.

Furthermore, Defendants argue that the CAA preempts the state law claims seeking damages for global pollution. Although Baltimore says its complaint is seeking damages and not the regulation of gas emissions, Defendants argue that Baltimore intends to hold Defendants liable for the effects of emissions made around the world – not just in Baltimore or the U.S. - and the request for damages is a form of regulation. Defs.’ Mot. 14.

To the contrary, Baltimore argues that Defendants’ reliance on federal law is misplaced. Baltimore claims that Defendants’ argument that the Constitution prohibits applying state law for injuries allegedly caused by out of state pollution fails for four (4) reasons: (1) Baltimore’s claims look nothing like any federal common law cause of action; (2) even if the claims were to have once come within federal common law, that body of law has been displaced by the CAA; (3) federal common law of foreign emissions does not exist and Defendants have failed to show that the foreign affairs doctrine applies; and (4) there is no basis to craft a new federal common law. Pl.’s Opp’n 7-8.

Additionally, Baltimore argues that the foreign affairs doctrine as relied on by Defendants is not a preemption defense. *Id.* at 17. No court has recognized a federal common law of foreign emissions and there is no basis to do so. *Id.* at 19. Further, Baltimore says Defendants fail to carry their burden to show that Baltimore’s Complaint would support the recognition of a new federal common law because this case does not fit the narrow and restricted areas available to all judge-made federal law absent express congressional authorization. *Id.* More particularly, this court cannot create new federal common law. *Id.* at 20. Even if this court could create new federal law, Defendants fail to satisfy the strict requisites. *Id.*

Finally, Baltimore argues that the CAA does not preempt its state-based claims because it is not attempting to regulate or abate emissions. Baltimore maintains that even if federal

common law was applicable, it has been displaced by the CAA. Pl.’s Opp’n 21. Once displaced the federal common law ceases to exist and, therefore, cannot preempt state law. *Id.* at 13-14. Once a statute like the CAA displaces federal common law, the statute may preempt state law, but the displaced common law cannot. *Id.* at 16.

As previously stated, courts across the country have differed on the issue as to whether federal law preempts state claims based on global emissions. These courts also differed in their characterization of the claims. In this case, Baltimore declares that it does not seek to regulate gas emissions, but instead its claims are designed to hold the Defendants accountable for misrepresenting the truth about the use and consequences of fossil fuels and for misleading consumers. This misrepresentation and deceptive campaign of misinformation, according to Baltimore, is what has driven the increased use of Defendants’ fossil fuels and thereby, the increase in global emissions. *See generally* Compl. Essentially, Baltimore asks this court to follow *Baltimore IV’s* and *Honolulu’s* opinions because they are consistent with Baltimore’s position and characterization of its own complaint. “Baltimore ... ‘does not seek to impose liability on Defendants for their direct emissions of greenhouse gases and does not seek to restrain Defendants from engaging in their business operations.’” *Baltimore IV*, 31 F.4th at 195 (quoting J.A. 47). Rather, “Baltimore seeks compensatory and punitive damages, disgorgement of profits, civil penalties under the MCPA, and equitable relief...” *Id.* at 196.

This court’s characterization of Baltimore’s complaint differs from *Baltimore IV’s* and *Honolulu’s* characterization of similar complaints. This court aligns itself with the opinions of the Second Circuit and the Superior Court of Delaware.¹¹ This court agrees with *NYC* that a complaint such as presented by Baltimore is artful but not sustainable. Baltimore’s arguments

¹¹ *City of New York v. Chevron Corporation*, 993 F. 3d 81 (2021). *State ex rel. Jennings v. BP Inc.*, 2024 WL 98888 (Del. Super. Ct. Jan. 9, 2024),

that it does not seek to directly penalize emitters; that it seeks damages rather than abatement; and that its claims will not result in the regulation of global emissions are not accepted by this court as the goal of its complaint. To the extent that characterization of the complaint guides the analysis, this court finds that Baltimore's complaint is entirely about addressing the injuries of global climate change and seeking damages for such alleged injuries. The explanation by Baltimore that it only seeks to address and hold Defendants accountable for a deceptive misinformation campaign is simply a way to get in the back door what they cannot get in the front door. As Defendants state, that explanation "...cannot be squared with Plaintiff's own characterization of its Complaint: Plaintiff alleges that '[t]he increased emissions attributable to Defendants' tortious conduct have engendered significant climate impacts.' Plaintiff 'does not allege that Defendants' campaign of deception and disinformation or failures to warn are in and of themselves a public nuisance.' Plaintiff thus cannot deny that it seeks redress for harms allegedly caused by climate change - a global phenomenon caused by emissions from sources in literally every State and Nation in the world - or that it seeks to hold Defendants liable under Maryland law for those out-of-state emissions." Defs.' Reply 15 (quoting Pl.'s Opp'n 28 n.9).

Although the characterization of the complaint mattered in *NYC, Honolulu and Baltimore IV*, the Defendants are correct in asserting that the characterization of the complaint does not matter here. The characterization "does not change the preemption [and displacement] analysis because [Baltimore] admits that its alleged injuries all stem from interstate and international emissions." Defs.' Mot. 17. Whether the complaint is characterized one way or another, the analysis and the answer are the same - the Constitution's federal structure does not allow the application of state law to claims like those presented by Baltimore. The characterization of the complaint is particularly important when deciding the preemptive effect of the CAA.

Baltimore’s claims cannot survive because they are preempted by federal common law (and the CAA). This court follows the sound reasoning of *NYC*.

After *Erie R. Co. v. Tompkins*, 304 U.S. 64 (1938), federal common law practically ceases to exist¹², however, there remains limited areas of law where federal common law continues to exist because of uniquely federal interests. *City of Milwaukee v. Illinois & Michigan (Milwaukee II)*, 451 U. S. 304 (1981). “Erie also sparked ‘the emergence of a federal decisional law in areas of national concern.’ The ‘new’ federal common law addresses ‘subjects within national legislative power where Congress has so directed’ or where the basic scheme of the Constitution so demands. Environmental protection is undoubtedly an area ‘within national legislative power,’ one in which federal courts may fill in ‘statutory interstices’ and, if necessary, even ‘fashion federal law.’” *Delaware*, 2024 WL 98888 at *8.¹³ Having recognized that federal common law is “subject to the paramount authority of Congress,” it is only resorted to in the absence of an applicable Act of Congress. *Milwaukee II*, 451 U.S. at 314. This line of rational thinking follows *Illinois v. City of Milwaukee (Milwaukee I)*, 406 U.S. 91 (1972), where the Court reasoned that the remedy sought by Illinois was not within the scope of remedies prescribed by Congress and held that when dealing “with air and water in their ambient or interstate aspects, there is a federal common law.” *Milwaukee I*, 406 U.S. at 103.

Global pollution-based complaints were never intended by Congress to be handled by individual states. Federal law governs disputes involving air and water in their ambient state. *See Am. Elec. Power Co. (AEP) v. Connecticut*, 564 U.S. 410, 421 (2011) (“One State cannot apply its own law to claims that deal with air and water in their ambient or interstate aspects.”).

¹² A federal court could not generally apply a federal rule of decision, despite the existence of jurisdiction, in the absence of an applicable Act of Congress. *Milwaukee v. Illinois*, 451 U.S. 304, 313 (1981).

¹³ Dismissing state-based claims because of the preemptive effect of the CAA.

The Supreme Court of the United States has held that state law cannot be used to resolve claims seeking redress for injuries caused by out of state pollution (sources). *See generally Int'l Paper Co. v. Ouellette*, 479 U.S. 481 (1987). The Second Circuit held that federal law governs cases such as this because it “implicate[s] two federal interests that are incompatible with the application of state law,’ namely, the ‘overriding need for a uniform rule of decision’ on matters influencing national energy and environmental policy and the ‘basic interests of federalism.’” *See Defs.’ Mot.* 10 (quoting *NYC* 993 F.3d at 91-92).

Baltimore’s argument relies heavily on *Baltimore IV* and *Honolulu’s* holding that its case is not about regulating emissions but about misrepresentation and deception as well as the holding that federal law has been displaced and ceases to exist. However, *Baltimore IV* is distinguishable from this case. This court’s decision is not in conflict with *Baltimore IV*. The Fourth Circuit analyzed federal common law preemption under the lens of removal jurisdiction where the sole consideration and focus was the doctrine of complete preemption and not the federal defense of ordinary preemption as it applied to the merits of the case. In other words, the question before the Fourth Circuit was whether Defendants’ preemption defenses could create federal question jurisdiction in light of the well pleaded complaint rule. *See Baltimore IV*, 31 F.4th at 178. Their answer was no. In fact, *Baltimore IV* distinguished itself from *NYC* by indicating that in a removal matter it was “bound by the well-pleaded complaint rule or ‘heightened standard’ that did not apply” in *NYC*. *Id.* at 203. This court respects *Baltimore IV’s* decision but is not bound by it. As stated in *NYC*, this court is “free to consider the [Defendants’] preemption defense on its own terms, not under the heightened standard unique to the removability inquiry.” *NYC*, 993 F.3d at 93-94. Baltimore agreed that the Fourth Circuit

decision would not preclude this court from holding that Baltimore’s claims would/could be preempted by federal law. Defs.’ Mot. 19.¹⁴

The instant case goes beyond the limits of Maryland state law. Again, the bottom line is that Baltimore, like *NYC* (and if the truth be told *Honolulu*), “intends to hold the [Defendants] liable under [Maryland] law, for the effects of emissions made around the globe over the past several hundred years. In other words, [Baltimore] requests damages for the cumulative impact of conduct occurring simultaneously across just about every jurisdiction on the planet.” *NYC*, 993 F.3d at 93. In *AEP*, Justice Ginsburg explained that cases, such as this one, are inappropriate under state law in that there are questions of national or international policy. Furthermore, Congress and the “expert agency [are]... better equipped to do the job than individual district [or state] judges issuing ad hoc, case-by-case injunctions” or decisions. *AEP*, 564 U.S. at 427-428. Judges lack the scientific, economic, and technological resources that the [EPA] possesses. *Id.*

Congress may displace federal common law over foreign emissions as it did with domestic emissions when it enacted the CAA. The CAA displaced federal common law as it relates to domestic emissions, not foreign emissions. Federal common law is still required to apply to extraterritorial aspects of claims challenging undifferentiated global emissions. *NYC*, 993 F.3d at 95 n.7, 101. State law cannot provide a remedy to claims involving foreign emissions. However, if Congress fails to act or does not provide a cause of action, state law is not presumptively competent to address this issue. *See NYC*, 993 F.3d at 98.

¹⁴ “Indeed, Plaintiff told the U.S. Supreme Court that the Fourth Circuit’s decision in this case ‘would not preclude a district court in the Fourth Circuit from holding that a claim identical to New York City’s. filed in federal court, would be preempted by federal law.’” Defs.’ Mot. 19 (quoting Br.in Opp., *BP P.L.C.*, No. 22-361, 2022 WL 17852486, at 12-13).

Does the CAA preempt Baltimore's state claims?

As stated by the Second Circuit, once the court concludes that these claims must be brought under federal common law, those claims run headlong into a problem of their own – the CAA. *Id.* at 95. The CAA displaced federal common law claims concerning domestic greenhouse gas emissions. Defs.' Mot. 20. Defendants argue that even if the Constitution did not preclude Baltimore's state law claims, the claims would still be barred by the preemptive effect the CAA would have on regulating out of state greenhouse gas emissions. *Id.* Baltimore alleges that the preemptive effect of the CAA is the only consideration for this court and that the CAA does not preempt its claims. Pl.'s Opp'n 21. Baltimore argues that both conflict and field preemption fail in this case. "There is not field preemption because the CAA's savings clauses make clear Congress did not intend to bar all state regulation of air pollution." *Id.* Baltimore further argues that conflict preemption fails because the claims do not prevent Defendants' compliance with the CAA. *Id.*

To determine whether the CAA preempts (express or implied) Baltimore's state law claims, this court must initially focus on the purpose of the CAA. In 1963, President Lyndon B. Johnson signed into law the Clean Air Act 42 U.S.C. §7401 (amended in 1970 and 1990) which to date was the most significant response to the growing concern and evidence of climate change. *Evolution of the Clean Air Act*, ENV'T PROT. AGENCY, <https://www.epa.gov/clean-air-act-overview/evolution-clean-air-act> (Nov. 21, 2023). The purpose of the CAA was (and is) to provide protection of public health by improving the quality of the nation's air. Congress purposed that air pollution prevention at its source is the primary responsibility of States and local governments. In 1970, the CAA shifted its focus and authorized the development of federal and state regulations to limit emissions from both stationary and mobile sources. *Id.* The

Act established and empowered the Federal Environmental Protection Agency (EPA) to establish national ambient air quality standards for various pollutants and to promulgate rules and regulations for attaining those standards. *Id.* In 1977 Congress again made changes to the CAA that established major permit review requirements for the National Ambient Air Quality Standards. In 1990 “the CAA substantially increased the authority and responsibility of the federal government.” *Id.* The most significant changes regarded urban pollution, permits, motor vehicles, air toxics, acid rain, and ozone depletion. Alexa Austin, *Cleaning Up the Confusion: Climate Change Litigation and Preemption*, 10 *Joule: Duquesne Energy & Envtl. L.J.* 6, 12 (2022). “The Act authorized the EPA to divide the country into ‘air quality control region[s]’... It required each state to submit for EPA approval a ‘state implementation plan’ (SIP), setting forth the state’s program for achieving the requisite air quality standards in each of its control regions ...” *Department of Transp. v. Armacost*, 311 Md. 64, 66 (1987). Additionally, under the Act, each state is authorized to enforce the limitations approved by the EPA and adopt and regulate any area covered under their SIP. The CAA contains a savings clause pertaining to state common law claims. *See* 42 U.S.C. §7604(e)(1)-(2) (preserving state regulation over in-state pollution sources only); *see also* Defs.’ Mot. 22-24.

When federal laws invalidate or supersede a state law, that state law is considered preempted. Preemption can be either express or implied. Generally, “preemption will not be found unless the Court concludes preemption was ‘the clear and manifest purpose of Congress’ (express) or that ‘a scheme of federal regulation... [is] so pervasive as to make reasonable the inference that Congress left no room for the states to supplement it.’” (implied). Jonathan H. Adler, *Displacement and Preemption of Climate Nuisance Claims*, 17 *J.L. Econ. & Pol’y*, 217, 240 (2022). If implied preemption is applied, the question is whether it is either “field

preemption” or “conflict preemption”. Baltimore argues that implied preemption (in either form) fails: “[t]here is no field preemption because the CAA’s savings clauses make clear Congress did not intend to bar all state regulation of air pollution. Pl.’s Opp’n 21 (citing 42 U.S.C. §7401 (a)(3)). There is no conflict preemption because “no aspect of its claims would make Defendants’ compliance with the CAA impossible or stand in the way of the CAA’s purposes and objectives.” *Id.* at 21.

The CAA has carved out certain areas for the states to act in regulating emissions. First, Congress says the CAA will not interfere if the state is regulating an in-state source. *See* 42 U.S.C. §7401(a)(3); *see also Ouellette*, 479 U.S. at 481. The purpose of the CAA is to occupy the field with the exception of those areas set aside for the state. The CAA includes two savings clauses, a citizen-suit savings clause and a states’ rights savings clause. *See* 42 U.S.C. §§7604 and 7416, respectively. The Supreme Court held that the Clean Water Act (CWA) preempts state law claims when dealing with an out of state point source. *Ouellette*, 479 U.S. at 500. The CAA (which is analogous to the CWA) does not preempt state law when pollution from within the state (a state source) is at issue. When claims are based on out of state sources/emissions, the CAA preempts to the extent that the claims seek to regulate emissions. Defs.’ Mot. 23.

Defendants argue that “[b]ecause [Baltimore’s] claims seek remedies for harms allegedly caused by cumulative worldwide greenhouse gas emissions over more than a century, imposition of those remedies would necessarily regulate interstate emissions, thereby upsetting the careful balance Congress struck through the comprehensive Clean Air Act regime overseen by EPA.” *Id.* Baltimore asks this court to follow the preemption analysis in *Baltimore IV*. However, as previously stated, *Baltimore IV* decided that preemption does not give rise to a federal question for the purpose of removal. This court, like the Second Circuit, considers the Defendants’

preemption defense argument on its own terms and not under the heightened standard unique to the removability inquiry. *NYC*, 993 F.3d at 94 (following *City of Oakland, Massachusetts, Rhode Island*, etc.¹⁵). The Supreme Court stated that “[l]egislative displacement of federal common law does not require the ‘same sort of evidence of a clear and manifest [congressional] purpose’ demanded for preemption of state law. ‘Rather, the test is simply whether the statute ‘speak[s] directly to [the] question’ at issue.” *AEP*, 564 U.S. at 424 (quoting *Mobil Oil Corp. v. Higginbotham*, 436 U.S. 618 (2010)). For the CAA to displace federal common law it is required that there is evidence that Congress has provided a sufficient legislative solution to the particular issue. *NYC*, 993 F.3d at 95.

The CAA speaks directly to the domestic emissions issues in this case. The Second Circuit held that the City’s state law claims are displaced by federal common law, and the Clean Air Act displaces the City’s federal common law damages claims where domestic emissions are involved. The Second Circuit again provides guidance in its analysis of two prior decisions, *AEP*, 564 U.S. 410 and *Native Village of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849 (2012). In *AEP* the question before the Supreme Court was whether the plaintiffs could maintain federal common law public nuisance claims against major electric power companies where the plaintiffs sought an injunction to set carbon dioxide emissions caps. The Supreme Court held that the CAA, which entrusted the complex balancing of emissions to the EPA and provides a means to seek limits on emissions from domestic power plants, displaced any federal common law right to seek abatement. *AEP* 564 U.S. at 428, 429. In this matter, Baltimore maintains that it is not seeking an injunction or in any way seeks regulation of Defendants’ gas emissions. However, Baltimore does seek damages rather than abatement and Defendants argue that seeking damages,

¹⁵ See *City of Oakland v. BP P.L.C.*, 960 F.3d 570, 575 (9th Cir.); see also *Massachusetts v. ExxonMobil Corp.*, 462 F. Supp. 3d 31, 34 (D. Mass. 2020); *Rhode Island v. Chevron Corp.*, 393 F. Supp. 3d 142, 146, (D.R.I. 2019).

in this instance, is tantamount to regulation. Defs.’ Mot. 24-25. Although *AEP* addressed abatement and not damages, in its ruling the Second Circuit found further support in the decision of *Kivalina* where the city requested damages for past emissions and did not seek abatement. The Ninth Circuit held that the Clean Air Act displaces the City’s common law damages claims. Although *Kivalina* did not seek abatement but sought damages, the analysis is the same. The Ninth Circuit opined that “the Supreme Court has instructed that the type of remedy asserted is not relevant to the applicability of the doctrine of displacement.” *Kivalina*, 696 F.3d at 857. The Ninth Circuit held that according to the Supreme Court, the CAA displaces federal common law and “[t]hat determination displaces federal common law public nuisance actions seeking damages, as well as those actions seeking injunctive relief.” *Id.* at 858. So, it is true here, that regardless of whether Baltimore seeks injunctive relief or damages, Baltimore’s claims are barred by the CAA. This court aligns with the sound reasoning of the Second Circuit and its agreement with the Ninth Circuit – “...that the Clean Air Act displaces the City’s common law damages claims...” which “...if successful would operate as a *de facto* regulation on greenhouse gas emissions.” *NYC*, 993 F.3d at 96. Therefore, if the CAA preempts federal common law, it preempts state law claims as well. *Id.* at 100.

However, as Baltimore feared, it may not have an open and direct avenue to a cause of action even under federal common law in that foreign policy concerns [may] foreclose a federal common law cause of action targeting emissions emanating from beyond our national borders. *Id.* at 101. That question may be resolved by the United States Supreme Court if the Honolulu defendants’ petition for certiorari¹⁶ is granted.

¹⁶ See *Sunoco LP v. City and Cnty. of Honolulu*, No. 23-947 (U.S.); *Shell PLC v. City & Cnty of Honolulu*, No. 23-952 (U.S.).

2. *Does Baltimore Plead Actionable Claims Under Maryland Law:*

Having granted the Defendants' Motion to Dismiss, the court need not consider the individual state law claims. However, to make the record complete, the court will briefly address the state law claims.

A. *Public and Private Nuisance*

In the first and second cause(s) of action, Baltimore alleges that Defendants created a public and private nuisance by affirmatively and knowingly promoting the sale and use of fossil fuel. Compl. ¶¶ 218-235. Defendants allege that Baltimore fails to state a claim for both public and private nuisance. Defendants argue that Baltimore improperly attempts to expand the scope of state nuisance law. Defs.' Mot. 33. Defendants contend that Baltimore's nuisance claims fail for several reasons: (1) Maryland only recognizes nuisance claims that are based on use of land; (2) Maryland does not recognize nuisance claims based on production, promotion and sale of a consumer product and (3) (Even if Maryland did recognize a nuisance claim based on the alleged facts of this case), the alleged facts do not show that Defendants exercised sufficient control over the instrumentality that caused the nuisance. *Id.* at 32-33. Per Defendants, to extend public nuisance theory to cases such as this one would eviscerate the boundary between nuisance and product liability. Defs.' Reply 20.

Baltimore alleges that the "Defendants created, assisted in creating, or were a substantial factor in contributing to a nuisance by, ... '[c]ontrolling every step of the fossil fuel product supply chain' including ... 'promoting the sale and use of fossil fuel products which Defendants knew to be hazardous and knew would cause or exacerbate global warming and related consequences'..." Pl.'s Opp'n 28. Baltimore declares that the nuisance claims are supported by

well-recognized Maryland law and “Maryland does not limit nuisance claims to the use of land or categorically exclude liability for nuisances created by wrongful promotion of hazardous products.” *Id.* at 30. Baltimore argues that the Maryland federal district court recognized that nuisance liability under Maryland law can extend to a defendant who misleadingly markets products for uses the defendant knows will likely cause environmental or health hazards. *Id.* at 31. Baltimore finds its support in the Fourth Circuit’s opinions in *State v. Exxon Mobil Corp*, 406 F. Supp. 3d 420 (2019) and *Mayor and City Council of Baltimore v. Monsanto Co.*, 2020 WL 1529014. Additionally, Baltimore argues that Maryland law does not impose a control requirement. “[C]ontrol is not a required element to plead public nuisance ...” in that Maryland imposes liability on all who actively participate in creating a nuisance. Pl.’s Opp’n 35 (citing *Monsanto*, 2020 WL 1529014). Baltimore argues that even if the law did require control, their complaint satisfies that requirement in that Defendants controlled every step of the fossil fuel product supply chain. *Id.* at 37.

“A private nuisance is a nontrespassory invasion of another’s interest in the private use and enjoyment of land. A public nuisance is an unreasonable interference with a right common to the general public.” Restatement (Second) of Torts §§821B, 821D. “A public right is one common to all members of the general public...not like the individual right that everyone has not to be assaulted or defamed or defrauded.” §821B, Comment g. Defendants are correct that Maryland state courts have yet to extend public nuisance law to cases concerning production, promotion and sale of consumer products. Under Maryland law such claims are more suited as product liability claims. However, Baltimore is also correct that Maryland’s Fourth Circuit extended the theory of public nuisance liability to the deceptive promotion of dangerous products while recognizing that Maryland state courts have not done so. The Fourth Circuit upheld the

public nuisance claim that was based on Exxon's manufacturing and marketing of MTBE gasoline (*See Exxon*, 406 F. Supp. 3d at 467) and on *Monsanto*'s marketing and promotion of PCBs (*See Monsanto*, 2020 WL 1529014 at *9-10).

This court finds that *Exxon* and *Monsanto* are clearly distinguishable from the present case. First, in *Exxon*, the State brought action against manufacturers, marketers and distributors of gasoline asserting public nuisance in that the State's waters were contaminated with MTBE, a fuel additive. 406 F. Supp. 3d 420. The MTBE was already deemed a dangerous toxic product as were the PCBs in *Monsanto*. In *Monsanto*, the State sufficiently pled that "the defendants substantially participated in creating a public nuisance by marketing and promoting PCBs while withholding their 'extensive knowledge about PCB's harmful effects.'" Pl.'s Opp'n 31 (quoting *Monsanto*, 2020 WL 1529014 at *9-10). In both cases the dangerous products were directly deposited into and directly entered the land and water of the plaintiff. The *Exxon* Court specifically held that "[b]ecause no case law forecloses this theory of public nuisance liability under Maryland law, I reject defendants' argument that the State's public nuisance claim must be dismissed to the extent it is premised on their manufacture, marketing, and supply of MTBE gasoline." *Exxon*, 406 F. Supp. 3d at 469. As Defendants characterized these federal cases, "both cases allege facts that established a tight nexus between the sale of a product and the contamination of local lands and waters." Defs.' Reply 22. Such tight nexus does not exist in the instant case. The Defendants' products have not been deemed dangerous in and of themselves. Fossil fuels are a lawful consumer product guided and regulated by the EPA. In the instant case, Baltimore does not allege that the Defendants directly released a hazardous chemical into the waters or lands of Baltimore at the point of sale. Rather, Baltimore alleges that Defendants' misrepresentations and deceptive conduct resulted in increased global use of fossil fuels which,

Baltimore says, has caused damage to the infrastructure of Baltimore. Pl.'s Opp'n 29-30. The damages alleged by Baltimore are the result of fossil fuel usage and gas emissions by third parties located all over the world. *Exxon* and *Monsanto* are in keeping with the Defendants' argument that public nuisance claims in Maryland must relate to a defendant's use of land.

This court recognizes that the Appellate Courts of Maryland have yet to extend public nuisance to deceptive marketing complaints¹⁷. The Fourth Circuit had a lower hurdle to jump considering the "tight nexus" between the defendants' actions and the nuisance. The causation in this case is much more attenuated. Thus far in Maryland, public nuisance theory has only been applied to cases involving a defendant's use of land. *See Tradjer v. Montgomery Cty.*, 300 Md. 539 (1984); *see also Whitaker v. Prince George's Cty.*, 307 Md. 368 (1986). It is the opinion of this court, in keeping with Oklahoma (*State ex rel. Hunter v. Johnson & Johnson*, 499 P.3d 719 (2021)) and Rhode Island (*State v. Lead Indus. Ass'n*, 951 A.2d 428 (2008)), that the lines between public nuisance law and product liability must be maintained. Therefore, until the Maryland Appellate Courts extend nuisance law to product liability cases, this court will not take that leap and dismisses the nuisance claims.

Defendants also argue that even if the public nuisance theory was sustainable, Baltimore fails to show that the Defendants exercised control over the instrumentality that caused the nuisance. Defs.' Reply 23. Defendants argue that emissions from their products occurred long after they relinquished control of their products to third parties, *Id.* at 24, and the "instrumentality allegedly causing Plaintiff's claimed harms is the worldwide combustion of fossil fuels that releases greenhouse gas emissions. Defs.' Mot. 39. Baltimore claims that Defendant's control argument rests upon a false premise that the instrumentality of the nuisance is the emission

¹⁷ Baltimore states that the instrumentality of the nuisance is the ongoing marketing and selling fossil fuels while misrepresenting their dangers. Pl.'s Opp'n 37.

resulting from the fossil fuels. “[H]ere, the nuisance causing instrumentality is ... ‘their ongoing conduct of marketing, distributing, and selling [fossil fuels]’ while misrepresenting their hazards.” Pl.’s Opp’n 37 (citing *Cincinnati v. Beretta U.S.A. Corp.*, 768 N.E. 2d 1136, 1143 (Ohio 2002)). Considering this court’s decision to dismiss the nuisance claims, it need not reach the decision as to whether Baltimore has shown exclusive control.

B. Duty to Warn

In count 3 (strict liability) and count 6 (negligence), Baltimore alleges that Defendants owed a duty to Baltimore and its residents to warn Baltimore and residents of the dangers of using Defendants’ fossil fuels. Defendants argue that Baltimore’s failure to warn claim for strict liability and negligence should be dismissed because Defendants had no duty to warn the world of the climate effects that inevitably flow from the intended use of their products. Defs.’ Mot. 42. Defendants emphasize that under Maryland law, duty “requires a close or direct effect of the tortfeasor’s conduct on the injured party.” *Id.* (citing *Gourdine*, 405 Md. 722, 746 (2008)). Imposing a duty on Defendants would be establishing a duty to warn the world, which is inapposite of Maryland law. Additionally, Defendants claim that no duty is owed where the dangers were clear and obvious and generally known. *Id.* at 43. Defendants argue that the link between fossil fuel use and global climate change has been well understood and widely known for at least a half a century. *Id.*

Conversely, Baltimore argues that under the theories of strict liability and negligence, the Defendants have a duty to warn because they knew or should have known of the dangerousness of fossil fuel use. Baltimore claims that “the determination of whether a duty exists represents a policy question of whether the specific plaintiff is entitled to protection from the acts of the defendant.” Pl.’s Opp’n 45-46 (citing *Gourdine*, 405 Md. at 745). Baltimore’s theory is that

under Maryland law the question of duty is answered by the analysis of several factors: foreseeability of harm; degree of certainty of injury; closeness of the connection between the defendant's conduct and the injury suffered, the moral blame attached to defendant's conduct; policy of preventing future harm; and the extent of the burden to the defendant and consequences to the community. *Id.* at 46. According to Baltimore, foreseeability is not only a required factor when assessing duty, but the most important factor. *Id.* (relying on *Kiriakos v. Phillips*, 448 Md. 440, 486 (2016)). Further, Baltimore indicates that Defendants owe a duty to warn as Baltimore is a foreseeable bystander. *Id.* at 47. Finally, Baltimore declares that the question of whether the dangers associated with the Defendants' products were open and obvious is a factual question preserved for the trier of fact. *Id.*

Maryland courts have recognized that duty to warn is an element of both strict liability and negligence claims. *Owings-Illinois, Inc. v. Zenobia*, 325 Md. 420, 435. n.7 (1992); *Gourdine*, 405 Md. at 722. The existence of a legal duty in this case is a question of law to be determined by this court. *Gourdine*, 405 Md. at 732. With respect to determining whether a duty exists, the *Gourdine* court discusses the nature of duty and foreseeability, citing *Patton v. United States of America Rugby Football*, 381 Md. 627, 637 (2004), “[w]here the failure to exercise due care creates risks of personal injury, ‘the principal determinant of duty becomes foreseeability.’ The foreseeability test ‘is simply intended to reflect current societal standards with respect to an acceptable nexus between the negligent act and the ensuing harm.’” *Id.* at 745. There is not a bright line rule that duty be defined without regard to the size of the group to which the duty would be owed. *Id.* at 752. However, *Gourdine* does warn against requiring a duty that would be owed to the world. “One cannot be expected to owe a duty to the world at large to protect it against the actions of third parties ...” *Id.* at 750 (quoting *Valentine v. On Target, Inc.*, 353 Md.

544, 553 (1999)). The assessment of foreseeability must include a regard for the size of the group to which the duty would be owed. *Id.*

In the present matter, Baltimore alleges that consumers all over the world used the Defendants' products which resulted in global gas emissions that caused climate change and ultimately injured Baltimore and its residents. Based on this premise Baltimore claims that Defendants owed Baltimore and other consumers a duty to warn of their products' known climatic hazards. Pl.'s Opp'n 45. Defendants aptly point out that "[Baltimore's] theory would extend the purported duty to everyone contributing to climate change because Plaintiff alleges that its injury results not from its own use of or direct exposure to Defendants' products, but from worldwide consumers' decisions to use fossil fuels over the course of decades, resulting in the global atmospheric accumulation of greenhouse gases ..., which then results in climatic changes, sea level rise, and finally increased mitigation costs to [Baltimore]." Defs.' Reply 26.

In this case, the duty to warn would be extended to every single human being on the planet whose use of fossil fuel products may have contributed to global climate change, ultimately affecting Baltimore and its residents. This exact level of duty – to the world – is what Maryland law warns against. As Defendants explained, "[e]ven a foreseeable risk of injury does not create a duty to warn an 'indeterminate class of people.'" *Id.* at 25. Baltimore does not allege that its injury comes from its own use of or direct exposure to Defendant's fossil fuels but from consumers' decisions to use fossil fuels across the globe for many years. For the reasons stated above, this court finds that the Defendants did not have a duty to warn. Therefore, counts 3 and 6 are dismissed.

C. Design Defect

Baltimore seeks relief under a products liability theory for strict liability for design defect (count 4) and negligent design defect (count 5). Defendants request that this court dismiss Baltimore's design defect claims because Baltimore has failed to allege any defect inherent in the design of Defendants' products. Defendants' products function as they were intended to in light of the fact that there may have been negative results of using the products (i.e., emissions of greenhouse gasses). Defs.' Mot. 45. Even if the products' normal function was dangerous, liability still would not attach. Defendants argue that its products are not unreasonably dangerous as is required to sustain a design defect claim. Supposing Baltimore could allege a defective condition, Baltimore could not satisfy the consumer expectation test, which considers whether a product is dangerous to an extent beyond what is contemplated by the ordinary consumer with ordinary and common knowledge of the product's characteristics. Defendants argue that Baltimore cannot support that level of dangerousness in its claims because Baltimore itself alleges widespread, longstanding knowledge of the products' characteristics. *Id.* at 46-47. Defendants argue that the allegations stated in the complaint "believe Plaintiff's claims that fossil fuel products 'have not performed as safely as an ordinary consumer would expect them to' with respect to emissions of greenhouse gases." *Id.* at 47 (quoting Compl. ¶ 253).

Baltimore argues that application of the consumer expectation test supports its claim that Defendants' products are defective and that Baltimore has adequately plead negligence and strict liability design defect claims. Baltimore argues that Defendants "took affirmative steps to misrepresent the nature of [climate] risks" and that "conduct 'prevented reasonable consumers from forming an expectation that fossil fuel products would cause grave climate changes.'" Pl.'s Opp'n 51 (quoting Compl. ¶ 254). Baltimore says that Defendants' arguments fail because "[the

products] do not perform as safely as a reasonable consumer would expect, as a consequence of Defendants' deliberate efforts to prevent consumers from appreciating that the products' normal use would cause [climate change]." *Id.* at 52. Ultimately, Baltimore says that the determination of when and what a Maryland consumer appreciated and understood is for the jury to decide.

In rebuttal, Defendants argue that Baltimore failed to confront the flaw in their claim that "all of its injuries resulted from normal and intended use of Defendants' products and that a design defect claim cannot be premised on a characteristic that is inherent in the product." Defs.' Reply 28. Further, the Defendants argue that Baltimore's contention that its claim turns on Defendants' promotional efforts is fundamentally problematic in that the Maryland Supreme Court has stated "the 'relevant inquiry in a strict liability action' for design defect focuses not on the conduct of the manufacturer but rather on the product itself." *Id.* (quoting *Phipps v. General Motors*, 278 Md. 337, 344 (1976)).

Baltimore seeks relief under a products liability theory for negligent product design (count 5) and strict liability (count 4). Maryland law follows the theory of strict liability (for design defect) as is set forth in the Restatement (Second) of Torts §402A (1965). Elements necessary to sustain a strict liability claim are: (1) the product was in defective condition at the time that it left the possession or control of the seller, (2) that it was unreasonably dangerous to the user or consumer, (3) that the defect was a cause of the injuries, and (4) that the product was expected to and did reach the consumer without substantial change in its condition. *Phipps v. General Motors Corp.*, 278 Md. 337, 344 (1976). "For a seller to be liable under §402A, the product must be both in a 'defective condition' and 'unreasonably dangerous' at the time that it is placed on the market by the seller." *Id.* The elements are applicable to a negligence action as well as strict liability action, meaning that the presence of a defect in the Defendants' product(s)

is necessary for Baltimore to recover under either theory. However, in an action founded on strict liability in tort, as opposed to a traditional negligence action, the plaintiff need not prove any specific act of negligence on the part of the seller. The burden of proof that the product is defective is in the hands of Baltimore, the alleged injured party. The defect may be evidenced by showing a defect in the design, a defect in the manufacturing process or that the product is inherently defective due to an extremely high level of dangerousness. *Cofield v. Lead Indus. Ass'n*, 2000 WL 32492681 at *2 (D. Md., 2000). Before this court can consider the “unreasonably dangerous” element, the defective condition of the product element must be satisfied.

In this matter Baltimore has not alleged that the Defendants’ products were defective at the time the products left the possession of any Defendant. That is a fatal flaw. It is simply not alleged. The product(s) must be both in a defective condition and unreasonably dangerous at the time the products were placed in the market. Additionally, Baltimore’s theory that: “Defendants’ fossil fuel products did not perform as safely as a reasonable consumer would expect because Defendants’ affirmatively prevented reasonable consumers from understanding their products’ true dangers,” Pl.’s Opp’n 53, is mistakenly focused on the behavior of the manufacturer and not the product itself. “The relevant inquiry in a strict liability action focuses not on the conduct of the manufacturer but rather on the product itself.” *Phipps*, 278 Md. at 344. This court will not address the “unreasonably dangerous” element because Baltimore has not carried its burden in showing that the Defendants’ products were defective. Baltimore failed to allege or show a defect in the design of Defendants’ products, therefore counts 4 and 5 are dismissed.

D. Trespass

Baltimore's seventh cause of action is trespass. Compl. ¶¶ 282-290. Defendants request dismissal of the trespass claim for the following reasons: (1) Baltimore fails to allege that Defendants interfered with property over which Baltimore has exclusive control. Defs.' Mot. 48. Defendants argue that Baltimore is required to identify specific properties that Defendants have allegedly trespassed and that naming the location is a pleading requirement pursuant to Maryland Rule 2-304. Defs.' Reply 31.; (2) Baltimore fails to allege that Defendants or their products intruded on to any property owned by Baltimore. Baltimore cannot sustain a claim for trespass because of the use of Defendants' products by third parties resulted in weather changes that affect another's property. Defs.' Mot. 49. Maryland courts have held that for a defendant to be liable for trespass there must be some connection with or some control over the object. *Id.* (citing *Rockland Bleach and Dye Works Co. v. H.J. Williams Corp.*, 242 Md. 375, 387 (1966)). Defendants state that the link between its products and the harms alleged by Baltimore is far too attenuated. *Id.* at 49.; and (3) Baltimore's claim fails because it not ripe. The harms Baltimore allege are anticipated future invasions of property. Future property invasions that have not occurred are not actionable. *Id.*

Baltimore states that it does in fact specify property over which it has control and on which Defendants have trespassed. Baltimore points out that it "owns, leases, occupies, and/or controls real property throughout the City." Compl. ¶ 283. However, Baltimore notes, it is not required at the pleading stage to specify each precise parcel that has been invaded. Pl.'s Opp'n 40. Baltimore also argues that it is not obligated to specify each precise parcel of property or land that has been invaded by Defendants (relying on *Exxon*, 406 F. Supp. 3d at 471). "Here the Complaint provides sufficient specificity to state a claim for trespass based on allegation that

flooding, sea level rise and other climate-related invasions threaten, ‘the City’s stormwater drainage system, especially in the vicinity of Jones Falls, Gwynns Falls, and Herring Run,’ Compl. ¶ 79, among other City-owned, leased, or controlled property and infrastructure. Compl. ¶¶ 197,199, 201-208, 213-15, 283-285; Pl.’s Opp’n 41. Baltimore argues that Defendants are liable for trespass when it interferes with Baltimore’s possessory interest in its property by entering or causing something to enter the land (relying on *Exxon v. Albright*, 433 Md. 303, 408 (2013)). Baltimore’s argument relies on the alleged fact that Defendants caused foreign matter to invade its property and that “Defendants substantially contributed to invasions of City property by misleadingly and deceptively marketing their fossil fuel products, knowing that emission from those products would cause the very climate-related invasions alleged ...” Pl.’s Opp’n 42. Furthermore, Baltimore argues that Defendants are incorrect that there is no precedent to support its claim.

In Maryland, a trespass occurs “[w]hen a defendant interferes with a plaintiff’s interest in the exclusive possession of the land by entering or causing something to enter the land [of the property owner].” *Rosenblatt v. Exxon Co., U.S.A.*, 335 Md., 58, 78 (1994). Although Defendants argue that Baltimore failed to specify the properties over which it has exclusive ownership and therefore this court should dismiss the complaint, this court notes that Baltimore’s complaint alleges several properties over which it has ownership or control, i.e., Inner Harbor, Jones Falls, etc. However, this court struggles with the novel theory of trespass in this case. That theory being that: “Defendants substantially contributed to invasions of City property by misleadingly and deceptively marketing their fossil fuel products, knowing that emissions from those products would cause the very climate-related invasions alleged ...” Pl.’s Opp’n 42. Baltimore’s theory of trespass is one that has not been recognized by Maryland state courts.

Maryland does, however, recognize that trespass can be caused by foreign matter entering the land attributed to a defendant's behavior. "[W]hen an adjacent property is invaded by an inanimate or intangible object it is obvious that the defendant must have some connection with or some control over that object in order for an action in trespass to be successful..." *Rockland*, 242 Md. at 387. Baltimore relies on *State ex rel. Jennings v. Monsanto Co.*, 299 A.3d 372 (Del. 2023), which held that the defendant substantially contributed to the entry of PCBs onto the State's land by supplying PCBs to Delaware manufacturers and consumers, knowing that their use would eventually trespass onto other lands. Pl.'s Opp'n 42 n.23. In *Jennings* and in *City of Bristol v. Tilcon Materials, Inc.*, 931 A.2d 237, 259 (2007), the actual foreign matter is the product produced and manufactured by the defendant. Baltimore also argues that its theory is supported by *Rockland*, where the defendant trespassed by placing fill material that was carried onto the plaintiff's land by "foreseeable seasonal rains." *Rockland*, 242 Md. at 387. However, the instant case is factually distinguishable and therefore the theory is misapplied. The foreign matter in *Rockland* is the defendant's fill material and it was the seasonal rains that carried the fill material onto the property of the plaintiff. In *Jennings*, the foreign matter was the PCBs. In each case the defendants had a connection and control over the foreign matter. That is not the theory in this case. In each of these cases the defendant had control of the foreign matter or made a substantial contribution to the invasion. Baltimore asks this court to determine that the Defendants' "substantial contribution" includes its marketing of its products, consumers' reliance on the marketing, increase in the sale and use of Defendants' products, the use of the products in every part of the world and the emission from that use causing the rainfalls and floods (foreign matter) in Baltimore. As Defendants have pointed out, "[t]he link between this activity and the harms of which Plaintiff complains is far too attenuated to constitute the control

necessary to establish liability for trespass.” Defs.’ Mot. 49. This court will not make that leap and extend trespass liability beyond where the Maryland Supreme Court has previously allowed.

E. Maryland Consumer Protection Act Claim

Baltimore alleges in count 8 of its complaint that Defendants violated the Maryland Consumer Protection Act (MCPA) “by engaging in the deceptive marketing and promotion of their products both by (1) making false and misleading statements regarding the known severe risks posed by their fossil fuel products that had the capacity, tendency or effect of misleading consumers and by (2) making false representations and misleading omissions of material fact regarding the known severe risks posed by their fossil fuel products with the intent that consumers would rely on those representations.” Compl. ¶ 295. Defendants argue that Baltimore’s claim should be dismissed for the following reasons: (1) Baltimore’s claim fails to allege that it relied on any statement made by Defendants; (2) it is baseless because it is not premised on any deceptive statement about Defendants’ products; and (3) it is time barred. Defs.’ Mot. 51-55.

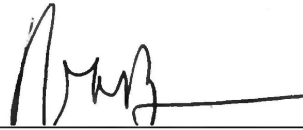
This court finds it necessary to address only the third argument – that Baltimore’s claim is time barred. Defendants allege that Baltimore’s claim is barred by the 3-year statute of limitations. Defendants argue that Baltimore “knew or reasonably should have known by reasonable diligence the facts giving rise to its MCPA claim far more than 3 years before it commenced this action in 2018.” Defs.’ Reply 37. Baltimore argues that its claim is timely because Defendants’ fraudulent concealment tolled the statutes of limitation. Pl.’s Opp’n 56.

“A civil action at law shall be filed within three years from the date it accrues...” CJP §5-101. An action accrues when a plaintiff knew or reasonably should have known. *Cain v. Midland Funding, LLC*, 475 Md. 4, 35 (2021). The question of when an action accrues is a question of

law to be determined by the judge. *Id.* Baltimore filed its claim in July of 2018. The statements and allegations made in the complaint make it clear that Baltimore was well aware of Defendants' alleged conduct before 2015 when it could have reasonably discovered a "wrong" committed by Defendants. Information as to Defendants' alleged misleading statements and false representations, true or not, was admittedly known by Baltimore years before 2015. Therefore, count 8 is dismissed.

CONCLUSION

For the foregoing reasons the Defendants' Motion to Dismiss Plaintiff's Complaint for Failure to State a Claim Upon Which Relief Can Be Granted (#199) is **GRANTED**.



Judge Videtta A. Brown
Circuit Court for Baltimore City

July 10, 2024

Date

07/10/2024 2:37:36 PM

MAYOR AND CITY COUNCIL
OF BALTIMORE,

Plaintiff,

v.

BP P.L.C., et al.,

Defendants.

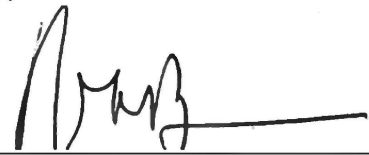
* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No.: 24-C-18-004219

* * * * *

ORDER

Upon consideration of the Defendants’ Motion to Dismiss Plaintiff’s Complaint for Failure to State a Claim Upon Which Relief Can Be Granted (#199), counsels’ memoranda and oral arguments, it is **ORDERED**, by the Circuit Court for Baltimore City, Part 33, hereby:

ORDERED that, for the reasons stated in the Memorandum Opinion and Order, Defendants’ Motion to Dismiss Plaintiff’s Complaint for Failure to State a Claim Upon Which Relief Can Be Granted (#199) is hereby **GRANTED**.



Judge Videtta A. Brown

July 10, 2024

Ordered

07/10/2024 2:37:54 PM

RENEW Act fact sheet '25.pdf

Uploaded by: Katie Fry Hester

Position: FAV



RENEW Act

Responding to Emergency
Needs from Extreme Weather

Sponsors: Senator Hester, Delegate Fraser-Hidalgo, Delegate Boafo

Maryland is facing a structural deficit. **The RENEW Act will bring in billions of new dollars to Maryland to help balance the budget and invest in climate solutions.** These investments will pay dividends and ensure we stay on track to meet our climate mandates. Black and Brown communities, overburdened and underserved communities, elderly populations, the underinsured, and children are the most vulnerable to climate change impacts and extreme weather events- we cannot continue to leave these vulnerable communities behind without dedicating specific funding to our ambitious, forward-thinking climate change mitigation and adaptation programs in the state.

The RENEW Act supports critical investments in programs that will provide necessary funding for health, infrastructure, equity, and urgent climate change mitigation and adaptation projects.

The following programs are eligible for funding from the RENEW Act:

Health

Health Resource Equity Communities Program
Office of Minority Health and Health Disparities
Medicaid

Local Jurisdictions

Capital Projects related to Flood Management
Defensive upgrades to roads, bridges, rail infrastructure, transit
Stormwater and Sewer System updates
Relocating, elevating, and retrofitting vulnerable wastewater facilities
Planning grants to prepare for extreme flooding

Transportation

Medium and Heavy-Duty Zero-Emission Vehicle Grant Program
Electric Vehicle Recharging Equipment Recharging Program
Transit Oriented Development Capital Grant and Revolving Loan Fund

Innovation

Funds to attract Cleantech and Renewable Energy Businesses to the state
Statewide Transit Innovation Program

Fuel switching

MEA LMI fuel switching program
Energy Storage System Grant

Schools

Installing heat pumps and other clean energy equipment
Zero-Emission Vehicle School Bus Transition Fund

Equity

LMI Energy Efficiency Programs
Resiliency Hub Grant Program for LMI communities
DHCD WholeHome weatherization program
Funding for the Commission on Environmental Justice and Sustainable Communities
Expanding the Overburdened and Underserved Communities staff at MDE
Expanding EmPOWER Maryland Program staffing

Disaster Preparedness

Comprehensive Flood Management Grant Program
State Disaster Recovery Fund
Dam Safety Program

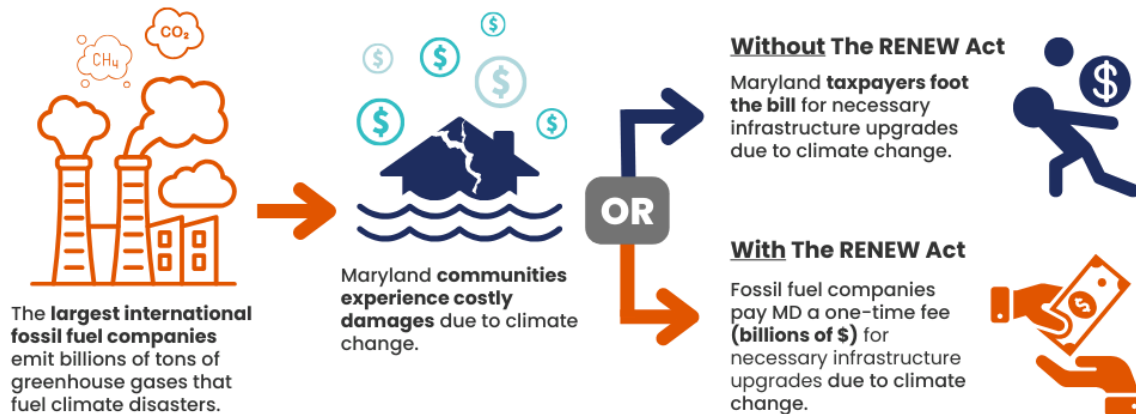
Natural Solutions

Whole Watershed Fund
Maryland Outdoors Fund
Stream restoration and natural filtration projects

Vermont and New York have already passed similar legislation. This legislation is currently under consideration in Maryland, Massachusetts, New Jersey, California, and Minnesota.

Protecting Marylanders, Not Polluters

Right now, Maryland taxpayers are footing the bill for climate change. The RENEW Act takes this burden off of taxpayers and puts it squarely on the shoulders of the largest, most polluting international fossil fuel companies.



FAQ:

Q: Who pays for the RENEW Act?

A: The RENEW Act would require any company that has emitted more than a billion tons of greenhouse gas emissions between 1994 and 2023 and has sufficient connection with Maryland to collectively pay a one time fee for the impacts of these emissions. The Maryland Department of the Environment, in consultation with the Comptroller and the Treasurer, will execute a study to determine the total assessment. The assessment would apply to roughly 40 companies. The funds collected will be held in the Climate Change Adaptation and Mitigation Fund. These companies responsible for the one-time assessment are NOT Maryland's utility companies- they are the largest, most polluting fossil fuel companies in the world.

Q: Will these costs cause oil and gas companies to go bankrupt?

A: In 2023, the three largest oil and gas companies in the US reported combined profits of \$85.6 billion dollars. These companies are bringing in record profits as the climate crisis worsens.

Q: Will RENEW affect consumer prices?

A: The non-partisan Institute for Policy Integrity conducted an exhaustive analysis of this policy and found that companies affected will not pass this cost onto Marylanders. The companies who pay into the fund will not be able to pass the cost along to consumers because they will still have to compete with smaller producers who don't have to pay into the fund. A gas station can buy oil from any producer. If 40 producers raise their prices, the gas station owner will buy from the hundreds of other producers who have not raised their prices.

For more information on the RENEW Act, please reach out to:
Brittany Baker- Maryland Director, Chesapeake Climate Action Network,
brittany@chesapeakeclimate.org

Stiglitz Letter re Climate Change Superfund.pdf

Uploaded by: Katie Fry Hester

Position: FAV

September 16, 2024

The Honorable Kathy Hochul
Governor of New York State
State Capitol Building
Albany, NY 12224

Dear Governor Hochul,

I write to offer my perspective on the question of the public cost impacts of the Climate Change Superfund Act (S.2129-B/A.3351-B). It is my understanding that your administration may have concerns about the potential effects on consumer gasoline prices of enacting the Climate Superfund.

To summarize, given that the assessment generated by the Climate Superfund is based on past pollution and therefore does not affect today's marginal cost of production, there should be *no* shifting of costs to consumers.

The Climate Superfund assessment would be placed on companies that engaged in the extraction of fossil fuels or the refining of petroleum during the covered period, which runs from 2000 through 2018, a period long after the dangers of greenhouse gases were recognized. These companies would be charged a pro rata share of a fixed amount of \$3 billion annually if their products resulted in the emission of at least one billion tons of greenhouse gases during the covered period.

There is a longstanding scientific consensus that greenhouse gas emissions contribute to climate change. According to the National Climate Assessment prepared by the United States government, climate change has already caused a wide range of damages that have placed a burden on taxpayers across the nation, including in New York. These costs will continue to increase. Substantial adaptation expenditures at all levels of government, as well as by businesses and individuals, will be required to reduce exposure to these harms as well as to remediate damages.

In a market economy, companies can be expected to charge prices that maximize their profits. The profit maximizing price for any good will be a function of the cost of production and demand. Companies will increase the price of their goods up to the point at which the marginal increase in profits from the price increase is offset by a decline in profits due to a reduction in the quantity of the goods demanded.

Because the contemplated assessment would be based on historic contributions to the current stock of greenhouse gases in the atmosphere, it would *not* affect *future* production costs. It would therefore be treated as a fixed cost that would be borne by the *owners* of the relevant companies.

There are additional strong market forces that will deter any cost shifting by the covered companies. The Climate Superfund assessments imposed on companies will vary from zero (companies that did not exceed the threshold) to hundreds of millions of dollars annually. Even if

a company hit with a large assessment (Company A) might wish to raise its prices to recoup the cost of the assessment, it won't be able to do so in a competitive market. If it does raise its price, however, and its competitors do not raise their prices, Company A will see demand for its product go down as consumers switch to a lower-priced competitor. To maximize its profits, Company A would abandon the price increase.

Further, the specific attributes of the global oil market preclude price increases resulting from the Climate Change Superfund assessments. The price of crude oil is set by the global market, based on the global balance of supply and demand. Individual companies cannot directly raise the price of crude even if it would be in their interest to do so. The price of gasoline at the pump, derived from crude oil, is set by a combination of global crude prices, refining costs, distribution and marketing costs, and local taxes and fees. The Superfund assessment does not impact any of those factors, as it is assessed too far upstream to impact local costs, and is far too small and affects too limited a universe of companies to impact global prices.

Finally, the companies likely to be covered by the Superfund assessment can easily afford these costs. The world's largest oil companies all enjoy significant operating revenue and significantly large profits. ExxonMobil, for example, made \$36 billion in *profits* last year alone. Even a substantial assessment could be absorbed by these companies without causing disruptions in their operations.

Given the growing damages caused by a worsening climate, the expenses needed to shore up public protections from climatic changes (such as rising sea levels, more intense storms, and hotter temperatures), the Climate Superfund offers a unique way to shift the burden of at least some of those costs from the taxpaying public to the companies most responsible. It does so in a way that should protect the public from cost shifting by the impacted companies.

Concerns about the impact of the Climate Change Superfund on consumer prices are unfounded and should not affect your support for this critical legislation.

Sincerely,

Joseph E. Stiglitz
University Professor
Columbia University

SB0149_2025_RENEW Act_FAV_Advanced Energy United.p

Uploaded by: Katie Mettle

Position: FAV



February 13, 2025
Maryland Senate
Education, Energy, and the Environment Committee

SB 0149
Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025
Sponsor: Senator Katie Fry Hester

Katie Mettle
Policy Principal, Advanced Energy United

FAVORABLE

Dear Chair Feldman, Vice Chair Kagan, and esteemed members of the Education, Energy, and the Environment Committee:

Advanced Energy United is an industry association that represents companies operating in the clean energy space. Our mission is to accelerate the transition to a 100% clean energy economy. Our member companies include, but are not limited to, companies which manufacture and sell electric school buses.

SB 0149 will establish the Climate Change Adaptation and Mitigation Fund, and supply it primarily with cost recovery payments. This fund will be used for many purposes, including supplying money to the Zero-Emission Vehicle School Bus Transition Fund, and installing clean energy retrofits in buildings. These investments will not only benefit our member companies, but will benefit the state by stimulating economic activity, saving ratepayers money, and growing the clean energy economy generally.

We respectfully request the Committee issue a favorable report. Thank you for your time.

Best Regards,

Katie Mettle, Policy Principal

Advanced Energy United

kmettle@advancedenergyunited.org

202.380.1950 x3197

SB0149_FAV_Maryland Just Power Alliance.pdf

Uploaded by: Katie Wenger

Position: FAV



Support the ReNEW Act (SB0149)

Dear Members of the Senate Education, Energy, & the Environment Committee,

We are the [Maryland Just Power Alliance](#), a coalition of 3 non-partisan community power organizations: [Anne Arundel Connecting Together \(ACT\)](#), [Action in Montgomery \(AIM\)](#), and [People Acting Together in Howard \(PATH\)](#), representing tens of thousands of Maryland residents. We organize people in congregations, schools, and neighborhoods to build power for policies that make our communities more just and livable for everyone. We are asking you to support the ReNEW Act (SB0149) in your Education, Energy, & the Environment Committee at the hearing on February 13.

As part of the Beyond Gas coalition with Interfaith Power and Light and the Sierra Club, our organization's team of tenant leaders has conducted hundreds of tests of NO₂ gas levels emitted from residents' gas stoves, and published a [study](#) showing that over 50% of the 394 homes tested in Maryland had unhealthy levels of NO₂ gas. These numbers are based on the EPA's standards for outdoor air quality. NO₂ causes asthma and other respiratory illnesses, and affects brain development in children. We are committed to improving our communities' health by funding upgrades to clean energy in homes, which is why we support the ReNEW Act.

The ReNEW Act (Responding to Emergency Needs from Extreme Weather) will respond to climate change by fining the largest fossil fuel polluters a one-time fee. The funds raised will help with climate change adaptation and mitigation, including energy efficiency and electrification upgrades in homes and multi-family apartment buildings that will benefit our communities' health. We want to make sure that no communities, particularly low-income communities, communities of color, or renters are left behind as we implement improvements to address our climate crisis. The funding will also help our communities prepare for and respond to extreme weather. It is important to us that you pass this bill through your committee.

Maryland has made bold commitments to be a leader on climate change, but needs to follow through on those commitments. This is the time to act boldly, and we are looking to you to vote for ReNEW and address the infrastructure, health, and upgrades ReNEW would provide to benefit our state in multiple ways for all of its residents.

Thank you for your consideration.

The Maryland Just Power Alliance



**ACTION IN
MONTGOMERY**



**PEOPLE ACTING
TOGETHER IN HOWARD**



**ANNE ARUNDEL
CONNECTING TOGETHER**

NRDC Testimony in Support of MD SB0149.pdf

Uploaded by: Kimberly Ong

Position: FAV



SB0149 - SUPPORT
Matthew Tejada
Natural Resources Defense Council
mtejada@nrdc.org

SB 0149- Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Joint Meeting of Education, Energy and the Environment and Finance Committee

February 13th, 2025

Dear Feldman, Vice Chair Kagan, and Members of the Education, Energy and the Environment and Finance Committees:

On behalf of the Natural Resources Defense Council (“NRDC”), I urge a favorable report on SB0149, the RENEW Act. This bill is ultimately about ensuring that the world’s largest producers of fossil fuels are held responsible for the harmful effects of climate change—hotter temperatures, longer and more severe heat waves, extreme weather events, and rising sea levels—that have and will continue to cost the state of Maryland billions of dollars in public health services and climate adaptation measures.

The Natural Resources Defense Council is an international, nonprofit environmental organization with more than three million members and online activists, including over 10,000 donor and advocacy members in Maryland. For five decades, NRDC has been committed to the preservation, protection, and defense of the environment, public health, and natural resources. And for over a decade, NRDC has helped states, municipalities, and the federal government adapt to the effects of climate change—including drought, flooding, wildfires, heatwaves, and other extreme weather. In response to a legal petition filed by NRDC in 2021, the Federal Emergency Management Agency is overhauling multiple aspects of the National Flood Insurance Program. Our work with coalitions also supported new flood disclosure policies that went into effect in New York, New Jersey and North Carolina in 2024 that ensure that both renters and homebuyers are aware of flood damages and risks.

Pollution from the oil and gas industries is the largest driver of climate change. While experienced globally, it is a problem with very local effects, especially on Maryland’s low-income communities and communities of color. Right now, extreme weather events are driving up costs for Marylanders and contributing to the state budget crisis, totaling nearly \$3 billion this year alone. With almost 3,200 miles of coastline, Maryland has lost more than 25,000 acres of

NATURAL RESOURCES DEFENSE COUNCIL

40 W 20TH STREET | NEW YORK, NY | 10011 | T 212.727.2700 | F 212.727.1773 | NRDC.ORG

forest and about 3,500 acres of farmland to tidal marsh since 1984.¹ According to the Center for Climate Integrity, Maryland will face \$27.4 billion in costs to build seawalls by 2040.² Also according to this organization, Maryland will face around \$800 million in school cooling costs by 2025, affecting almost 900,000 students.³ These costs will be borne by Maryland taxpayers, and are a direct result of climate change.

Meanwhile, oil, coal, and gas companies are enjoying windfall profits as consumers pay higher heating and transportation costs—Exxon-Mobil, for example, reported net income of \$26 billion for 2024 and Shell reported \$21.4 billion for 2023.

To help recoup the unprecedented costs associated with climate change adaptation, several states are turning to a long-standing and well-established environmental principle—polluter pays. Since the 1980s, the federal Superfund law has forced legacy polluters to pay for the clean-up of toxic wastes dumped over time, including during the decades when such dumping of toxic waste was not specifically illegal. It is a simple “strict liability” concept—if you made the mess, you pay for the clean-up and the consequences.

Versions of this bill have already passed in Vermont and New York. At least four other states have introduced such bills—in California, New Jersey, Minnesota, and Massachusetts. Indeed, U.S. Senator Chris Van Hollen wrote the model for this bill as part of a similar federal campaign.

The RENEW Act is, at its core, a taxpayer relief bill. Passing the RENEW Act will provide dramatic relief to Maryland taxpayers by asking the biggest oil companies responsible for global warming to pay their fair share of the cost to recover from and prepare for climate extremes like wildfires, flooding, intense rain events, extreme heat, and the public health impacts associated with these types of events. It will help the state address our budget shortfall without making any Marylanders pay an additional cent in taxes or energy costs.

As Maryland struggles daily with the local effects of climate change and plans for an uncertain future as temperatures continue to rise, it must be permitted to seek compensation for these exorbitant costs. Please pass the RENEW Act to relieve taxpayers from rising costs and to protect Marylanders from worsening impacts of climate change. We urge a favorable report.

¹ Center for Climate Integrity, Maryland Climate Impacts and Costs 1 (2024), <https://climateintegrity.org/uploads/media/CCI-Maryland-ImpactsAndCosts-2024.pdf> (last visited January 21, 2025).

² *Id.* at 2.

³ *Id.* at 8.

SB149 RENEW Act_EEE_CJW FAV.pdf

Uploaded by: Laurie McGilvray

Position: FAV



Committee: Education, Energy and the Environment

Testimony on: SB149 - The Responding to Emergency Needs from Extreme Weather (RENEW) Act

Organization: Maryland Legislative Coalition Climate Justice Wing

Submitting: Monica O'Connor, Co-Chair

Position: Favorable

Hearing Date: February 11, 2025

Dear Chair Feldman Members of the Education, Energy and the Environment Committee,

Thank you for allowing our testimony today in support of SB149 The Responding to Emergency Needs from Extreme Weather (RENEW) Act. The Maryland Legislative Coalition (MLC) Climate Justice Wing, a statewide coalition of nearly 30 grassroots and professional organizations, urges you to vote favorably on SB149.

The climate crisis is making extreme weather events more common and more costly. From 2010 to 2020, Maryland experienced 31 extreme weather events, costing the state up to \$10 billion in damages.¹ Two 1,000-year floods in Ellicott City in less than 2 years, recurring floods in Annapolis, salt water intrusion on farmland on the Eastern Shore, and punishing heat waves in Baltimore are some examples of how the climate crisis is damaging lives and infrastructure. Maryland State and county governments have no choice but to make expensive investments to adapt to more frequent extreme weather events. These escalating costs are driving up costs for Marylanders and contributing to the state budget crisis.

The Renew Act directs the state to conduct an analysis of how much climate impacts are costing Maryland, then directs the state to require large out-of-state fossil fuel companies to pay that amount to Maryland. Right now, necessary adaptation measures are costing over \$50 million to upgrade the dock in Annapolis due to chronic flooding, \$228 million to combat flooding in Ellicott City, and \$950,000 annually to upgrade stormwater management systems to handle heavier rain storms in St. Mary's County. Similar costs afflict nearly every jurisdiction across the state. A study is needed to determine just how much a financial burden for adaptation and mitigation investments is being borne by Maryland tax payers as a direct result of climate change.

Renew will take that burden off the backs of Maryland taxpayers and put it squarely on the

¹ <https://www.whitehouse.gov/wp-content/uploads/2021/04/AJP-State-Fact-Sheet-MD.pdf>

shoulders of the largest international fossil fuels companies who knew and lied about the climate crisis for nearly half a century.² Renew will bring new revenue without making a single Marylander pay an additional cent, by charging large, out-of-state fossil fuel companies a one-time penalty for their historical emissions. It will require any company that has emitted more than a billion tons of greenhouse gas emissions cumulatively between 1994 and 2023 and sells its products in Maryland to collectively pay billions of dollars to help balance the budget and invest in climate solutions. This would apply to roughly 40 of the wealthiest companies. In 2022, those companies collectively made over \$500 billion in profits.

New York State and Vermont have already passed similar legislation and California, Minnesota, New Jersey, Virginia, and Massachusetts are considering similar legislation. The federal legislation also was [reintroduced](#) by Senator Van Hollen in the current Congress. A 2023 poll conducted by Gonzales Research & Media Services shows most Marylanders believe that the energy companies responsible for the climate crisis should pay for infrastructure upgrades and adaptation, not the taxpayer.³

To survive climate change, Maryland needs new revenue. The RENEW Act is the first step in relieving the onerous and growing financial burdens forced on the people of this state. The MLC Climate Justice Wings agrees that Maryland should collect funds from out of state energy companies and invest those funds in building a better Maryland.

Therefore, we recommend a FAVORABLE report for SB149.

350MoCo

Adat Shalom Climate Action

Cedar Lane Unitarian Universalist Church Environmental Justice Ministry

Chesapeake Earth Holders

Chesapeake Physicians for Social Responsibility

Climate Parents of Prince George's

Climate Reality Project

ClimateXChange – Rebuild Maryland Coalition

Coming Clean Network, Union of Concerned Scientists

DoTheMostGood Montgomery County

Echotopia

Elders Climate Action

Fix Maryland Rail

² <https://news.harvard.edu/gazette/story/2023/01/harvard-led-analysis-finds-exxonmobil-internal-research-accurately-predicted-climate-change/>

³ <https://www.marylandmatters.org/2024/02/02/poll-shows-wide-support-in-md-for-making-polluters-pay-for-climate-change/>

Glen Echo Heights Mobilization
Greenbelt Climate Action Network
HoCoClimateAction
IndivisibleHoCoMD
Maryland Legislative Coalition
Mobilize Frederick
Montgomery County Faith Alliance for Climate Solutions
Montgomery Countryside Alliance
Mountain Maryland Movement
Nuclear Information & Resource Service
Progressive Maryland
Safe & Healthy Playing Fields
Takoma Park Mobilization Environment Committee
The Climate Mobilization MoCo Chapter
Unitarian Universalist Legislative Ministry of Maryland
WISE

sb149 RENEW Act EEE 2-13-2025.pdf

Uploaded by: Lee Hudson

Position: FAV



Delaware-Maryland Synod
Evangelical Lutheran Church in America
God's work. Our hands.

Testimony prepared for the
Education, Energy, and the Environment Committee
on
Senate Bill 149
February 13, 2025
Position: **Favorable**

Mr. Chairman and members of the Committee, thank you for the opportunity to testify about stewardship in the natural world. I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America. We are a faith community of congregations in three ELCA synods, located in every part of the State.

Our community named greenhouse gas emissions an environmental threat to the natural world in 1993. Despite rhetoric in public discourse, time has validated that assertion. It no longer matters what is thought and said about a climate crisis. Earth's atmosphere is dictating the vocabulary. If what we value is what we spend money to buy, it's gotten very expensive to live in our settled communities and built contexts.

It's gotten very expensive to live in a changing climate. Private enterprises *and* public institutions *are* calculating the costs of fire storms, inundation, infrastructure repair and hardening, health and safety, in their forward-facing finances.

Thus, private profit from carbon energy is a publicly subsidized product. Costs from burning stuff has been shifted onto the public. It is appropriated to other commercial interests, public and private institutions, indemnity products, and of course, people living in the carbonized context.

As one energy production regime is subsidized by Maryland subdivisions and each of their legislative precinct voters, other production sources have been held out of the energy sector by public policy and its actors. Voters are recognizing what their dollars are buying: more of the same. "Voters" are placeholders for people living in the climate catastrophe this energy regime produces.

The cost of the climate crisis exceeds the cost of carbon-neutrality and has for some time. It is meet and right to allocate some of this cost at its source to balance that equation. **Senate Bill 149** weighs the calculation with a measure of past emissions from the largest for-profit operations and collects a resource fund to help pay for damage now, and risk still to be apportioned to the public year-on-year as far forward as anyone can calculate.

Earth's atmosphere is going to make paying for this crisis one way or another mandatory. We may as well begin resourcing public relief now for damage being done. We continue to urge reductions of current GHG emissions. Seawalls, dredge-fill islands, flood and fire insurances, and treatments of hidden health conditions within demographic cohorts, are necessary, but insufficient if we keep burning stuff. We ought to incentivize GHG reductions. We ought, at least, to capture some resource to pay for what is happening. Our community urges your favorable report.

Lee Hudson

SB0149_FAV_RENEW_Act_EEE_HoCoCA.org.pdf

Uploaded by: Liz Feighner

Position: FAV



HoCoClimateAction.org
Howard County, Maryland

Bill: SB0149 - The Responding to Emergency Needs from Extreme Weather (RENEW) Act
Hearing Date: February 13, 2025
Bill Sponsor: Senator Hester
Committee: Education, Energy, and the Environment
Submitting: Liz Feighner for HoCo Climate Action
Position: Favorable

[HoCo Climate Action](#) is a [350.org](#) local chapter and a grassroots organization representing approximately 1,400 subscribers. We are also a member of the [Climate Justice Wing](#) of the [Maryland Legislative Coalition](#).

Howard County Climate Action supports **SB0149, The RENEW Act**, which will bring new revenue into the state by charging large, out of state fossil fuel companies a one time penalty for their historical emissions for the damage they have caused.

Howard County has had 2 major deadly flooding events in 2016 and 2018 due to the effects of the climate chaos. The price of a flood prevention project, the “extended north tunnel”, in Ellicott City has skyrocketed to \$141.5 million and it keeps rising and it will be the largest expenditure in the history of our county. Lives were lost and businesses were destroyed all due to the harm caused by the large fossil fuel companies while they knew for decades the damage they were causing.

The bill directs the state to conduct an analysis of how much climate impacts are costing Maryland, then directs the state to require large out-of-state fossil fuel companies to pay that amount to Maryland. The one time payment will only apply to companies that have emitted more than \$1 billion tons of carbon cumulatively between 1994 and 2023. That is a short list of companies, none of which are based in Maryland.

We urge a **favorable report on SB0149**.

Howard County Climate Action
Submitted by Liz Feighner, Steering and Advocacy Committee
www.HoCoClimateAction.org
HoCoClimateAction@gmail.com

SB 149 - National Aquarium - Support.pdf

Uploaded by: Maggie Ostdahl

Position: FAV



NATIONAL AQUARIUM®

Date: February 13, 2025

Bill: SB 149 – Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Position: Support

Dear Chair Feldman and Members of the Committee:

The National Aquarium respectfully requests a favorable report for SB 149. This legislation would require that fossil fuel companies emitting more than a billion tons of greenhouse gas emissions and with sufficient connection to the state be financially responsible for impacts to Maryland from their emissions. The Maryland Department of the Environment, in consultation with the Comptroller and the Treasurer, will conduct a study to determine fees and resulting funds would be directed to the Climate Change Adaption and Mitigation fund used to pay for climate resiliency projects throughout the state.

The National Aquarium connects people with nature to inspire compassion and care for our ocean planet through a holistic, solutions-focused approach. This includes translating ocean and climate science, building resilience through community empowerment, implementing nature-based solutions, and reducing our own carbon footprint with a commitment to achieving net-zero greenhouse gas emissions by 2035.

Marylanders are experiencing escalating costs of climate impacts from intense storms, flooding, extreme heat, and saltwater intrusion. Climate change is also affecting wildlife and natural spaces we cherish, including species with commercial and recreational importance. The RENEW Act will ensure that the costs associated with these climate impacts are not left solely to the state's taxpayers and are shared by some of the largest emitters of greenhouse gases. The legislation is a fiscally responsible approach to addressing impacts of carbon pollution to our state and will better direct investment in climate solutions that are necessary to minimize costs and build climate resilience for a cleaner, safer and more affordable future.

Maryland is a climate leader with ambitious goals to reduce greenhouse gas emissions and a commitment to environmental justice. Meeting our goals will require increased and sustained funding. Maryland's taxpayers should not foot the entire bill for climate impacts caused by global carbon pollution. As a climate leader, Maryland should take the opportunity to be among the first states to enact legislation that requires the largest emitters to contribute to the escalating costs of climate change.

We urge the Committee to issue a favorable report on SB 149.

Contact:

Ryan Fredriksson

Vice President, Government Affairs

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Maggie Ostdahl

Sr. Conservation Policy Manager

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SB0149_MDSierraClub_fav_13February2025.pdf

Uploaded by: Mariah Shriner

Position: FAV



Committee: Education, Energy, and the Environment

Testimony on: SB 0149, Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

Position: Support

Hearing Date: February 13, 2025

The Maryland Chapter of the Sierra Club urges a favorable report for SB 0149, the RENEW Act. The funds raised from large climate polluters under this legislation will help Maryland offset the significant damage from burning fossil fuels these entities produced or processed while knowingly damaging our environment. Rather than further burdening a stretched Maryland budget or the state's residents, this bill would make polluters pay.

This bill calls for the largest generators of greenhouse gases from fossil fuels that do business in Maryland to pay the costs of mitigating and adapting to the damages caused in Maryland by their climate pollution. Each fossil fuel producer or processor that has generated at least 1 billion tons of carbon dioxide equivalent (CO₂e) globally and does business or sells into Maryland would pay its proportionate share of the current and future costs of climate impacts from these fossil fuels. This would apply to around 40 companies – and includes most of the largest, most polluting fossil fuel companies in the world. Payments from the fossil fuel companies would continue for nine years. The funds generated will be deposited into a Climate Change Adaptation and Mitigation Fund. The monies raised will be used to harden infrastructure, protect shorelines, upgrade water and wastewater facilities, install heat pumps in low-income households, cover the costs of staffing needed at government agencies, among a long list of other adaptation, mitigation and health measures. The RENEW Act is similar to superfund legislation that provides funding for cleanup of toxic waste.

Climate pollution has caused and will continue to cause significant damage to our shorelines, coastal wetlands, biodiversity, water and wastewater management facilities, roads, schools and other private and government buildings. In 2024 there were eight climate events in Maryland that cost at least \$1 billion¹. The heat, extreme weather impacts and particulate pollution from the combustion of fossil fuels cause significant health problems which disproportionately impact low-income Maryland residents. Preventing future damage by strengthening infrastructure and reducing the output of greenhouse gases will require significant investments.

¹ National Centers for Environmental Information, <https://www.ncei.noaa.gov/access/billions/summary-stats/MD/2024>

The Climate Change Adaptation and Mitigation Fund could potentially cover a significant proportion of the mitigation costs that Maryland needs to meet its climate goals and to adapt to current and future damages caused by climate change. Among the mitigation actions supported by the fund will be: watershed restoration, DHCD whole home retrofits, support for transit-oriented development, energy storage grants, medium- and heavy-duty zero emission vehicle grants, funds to attract cleantech and renewable energy businesses, zero-emission vehicle school buses, low- and moderate-income fuel switching programs, bikeways, and staff at state agencies to support these programs. Adaptation spending authorized under the Act will include: flood management, dam safety, watershed protection, stream restoration, stormwater and sewer system updates, defensive upgrades to transportation infrastructure, and planning grants to prepare for extreme flooding. Health spending would support the Health Resource Equity Communities Program and the Office of Minority Health and Health Disparities.

The RENEW Act is unlikely to raise the cost of fossil fuels for Maryland's residents, businesses and utilities because the Act assesses charges based on past actions. In general, market prices are based on current costs of production and competition, not sunk costs. The Act also focuses on large businesses, so competitive pricing by smaller firms will also make it difficult for large firms to pass along their assessed charges to customers.

The State Treasurer's office will determine the past and future costs of mitigating and adapting to climate change that are generated by polluters that each exceeded 1 billion tons of greenhouse gases from fossil fuels between 1994 and 2023. The costs in excess of 1 billion tons per entity will be allocated proportionately to those large fossil fuel polluters. The polluters will all be entities that do business in or with Maryland entities or have sold products to residents, businesses, organizations, or governments in Maryland. The RENEW Act applies to fuels produced or processed since 1994 when producers became aware of the damages from generating greenhouse gases.

Upon passage of the RENEW Act, Maryland will be joining Vermont and New York, which have recently passed similar legislation. Related legislation is also currently under consideration in Massachusetts, New Jersey, California, and Minnesota.

The Maryland Chapter of the Sierra Club strongly supports SB 0149. We urge a favorable report.

Christopher T. Stix
Clean Energy Legislative Team
StixChris@gmail.com

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

SB149_ Responding to Emergency Needs From Extreme

Uploaded by: Maryland Legislative Latino Caucus

Position: FAV



MARYLAND LEGISLATIVE LATINO CAUCUS

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ASHANTI MARTINEZ, CHAIR
GABRIEL ACEVERO, VICE-CHAIR
DENI TAVERAS, TREASURER
JOE VOGEL, SECRETARY
JASON A. AVILA GARCIA, EXECUTIVE DIRECTOR

TO: Senator Brian J. Feldman, Chair
Senator Cheryl C. Kagan, Vice Chair
Education, Energy, and the Environment Committee
Members
FROM: Maryland Legislative Latino Caucus
DATE: February 13, 2025
RE: SB149 – Responding to Emergency Needs From Extreme
Weather (RENEW) Act of 2025

The MLLC Supports SB149 – Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of SB149.

The largest contributor to climate change are fossil fuels accounting for 75% of global greenhouse gas emissions and nearly 90 percent of all carbon dioxide emissions.¹ Multiple studies have found that climate change has a disparate impact on racially and socioeconomically marginalized communities. They experience higher climate-related health impacts including respiratory and cardiovascular disease, heat-related illness, and mortality. Climate change has particularly impacted the health of children, with children of color and in low-income families facing disproportionate health risks due to environmental exposures and social and economic stressors driven by housing conditions and food insecurity.²

Latino communities are disproportionately impacted by climate change due to where they work and live. Specific work sectors including agricultural, tourism, and labor are impacted by climate change to a greater extent than others. Latino workers over represent these work sectors.³ According to the EPA, Latino communities are 43% more likely to currently live in areas where extreme temperatures are likely to reduce working hours thus impacting economic stability.⁴ As Latinos make up 83% of farmworkers in the US, they are at an increased risk of dying from heat-related illnesses.⁵

This bill establishes a Climate Change Adaptation and Mitigation Payment Program in the Department of the Environment to secure compensatory payments from fossil fuel businesses to provide revenue for state efforts to adapt to and mitigate climate change impacts. Companies responsible for over 1 billion tons of emissions would owe payments with the total liability for all companies combined set at \$9 billion. These payments would go into a Climate Change Adaptation and Mitigation Fund to support state infrastructure projects, health programs, and other efforts to address climate change.

¹ [Causes and Effects of Climate Change](#)

² [Racial Disparities in Climate Change-Related Health Effects in the United States](#)

³ [The Climate Crisis Is a Latino Civil Rights Crisis](#)

⁴ Ibid

⁵ Ibid

In particular, 40% of these funds must go towards communities disproportionately affected by climate impacts. This is a key provision in addressing the disparate impacts of climate change faced by racially and socioeconomically marginalized communities.

For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on SB149.

SB 149- CBF - FAV.pdf

Uploaded by: Matt Stegman

Position: FAV



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 149

Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

Date: February 13, 2025
To: Education, Energy, and the Environment Committee
Finance Committee

Position: **FAVORABLE**
From: Gussie Maguire,
MD Staff Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 149 which establishes a state fund to adapt to or mitigate impacts of climate change by requiring payments from fossil fuel companies proportional to the volume of greenhouse gas emissions produced. These funds would be used to pay for climate resiliency projects throughout the state.

40 years ago, 9 inches of rain was considered a hundred-year rainfall event. Today, that amount is predicted to occur once in a decade. Few stormwater management practices across the state were designed to handle this increased precipitation. The state is also experiencing record high tides, even on sunny days, along its 3,000+ miles of tidal coastland. These tides meet inadequate stormwater drainage systems and cause persistent and worsening flooding in low-lying residential areas—home to many of the state’s underserved and overburdened communities. To address this impact on some of Maryland’s most vulnerable, the bill directs 40% of funding towards communities disproportionately impacted by climate change.

The Maryland Department of the Environment’s [2024 Integrated Report of Surface Water Quality](#) found that almost every stream in the state is warming. Rising water temperatures - a result of increased air temperatures, industrial discharges, and stormwater management practices that inadvertently heat stored runoff - stress sensitive fish and invertebrates, contributing to increased mortality even in catch and release fishing practices. Aquatic species hold critical roles in Maryland’s recreational opportunities, in the seafood industry, and within their ecosystems. To protect the people and places that Marylanders hold dear, the state must make necessary infrastructure investments to adapt to new extremes.

Holding fossil fuel companies financially responsible for their impacts on the state will provide a significant source of revenue to invest into crucial infrastructure needed to make Maryland climate-resilient. This is an issue of fundamental fairness: fossil fuel companies can afford to pay for their pollution impacts. Maryland taxpayers should not be asked to subsidize the protection of themselves, their neighbors, and economically crucial ecosystems for multi-billion-dollar corporations.

CBF urges the Committee’s FAVORABLE report on SB 149.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

SB 149 - LOS.pdf

Uploaded by: Matthew Dudzic

Position: FAV

Letter of Support**Senate Bill 149 – Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025**

*Education, Energy, and the Environment
February 13, 2025*

I thank Senator Hester for introducing Senate Bill 149 (SB149), Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025. I applaud Senator Hester for her leadership in addressing the grave threat posed by climate change to Maryland's communities, environment, and the economy.

As a standing member of the Maryland Commission on Climate Change (MCCC), I was proud to vote for the MCCC's recommendation that the Maryland General Assembly commission a study of the current and projected costs of anthropogenic climate change for the purpose of assessing a fee on major carbon polluters to compensate the State of Maryland. By identifying the many ways in which greenhouse gas emissions drive up costs of public health, diminish our natural resources, escalate the housing affordability crisis, and otherwise hinder economic development, we can begin to put a true cost to the impacts of climate change. From there, we can join with other states in assessing a fee to those most responsible – without passing these costs on to our communities.

I support the RENEW Act's inclusion of a study in line with the MCCC's recommendations. I am happy to consult with any agency tasked with leading this study and contribute any expertise that the Office of the Comptroller and the Bureau of Revenue Estimates can provide. This is a vital step in protecting Maryland's economy from the looming impact of climate change.

I urge a favorable report on SB 149. If you have any questions, please feel free to reach out to Matthew Dudzic, Director of State Affairs, at MDudzic@marylandtaxes.gov.



Brooke E. Lierman
Comptroller of Maryland



SB149_FAV_Goldman.pdf

Uploaded by: Michael Goldman

Position: FAV

SB149 - SUPPORT

Michael Goldman

Volunteer, Chesapeake Climate Action Network

mgoldman525@gmail.com

SB149 - Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Meeting of the Education, Energy, and the Environment Committee

February 13, 2025

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee:

My name is Michael Goldman, and I am a volunteer with the Chesapeake Climate Action Network Action Fund. I am also a resident of University Park and live in Senate District 22. I am testifying in support of the RENEW Act–SB149.

One of the things that first drew my family to this part of Maryland was the historical charm of the University Park neighborhood. Our house was built in 1937, and we love its many original touches and the way it is nestled into the gently sloping hillside. However, some of the very features that we loved about the house have also taught us an object lesson about how the infrastructure of the past is failing to meet the demands of a changing climate. The original copper gutters were badly undersized, and during storms, that gently sloping hillside would funnel a small river of water toward our below-grade driveway with no drainage grate at the bottom. The first few storms that flooded our basement taught us these lessons quickly.

One memory specifically sticks in my mind. A storm dropped more than an inch of rain in less than an hour and, determined to save our basement from flooding again, I was out in the torrential downpour desperately trying to keep the water moving away from the house. Despite my frantically clearing the one vital, undersized drain that would divert water away from our home, the water level kept rising.

We are fortunate that we have been able to address most of the water management issues on our property, but our experience has been a microcosm of the much larger crisis Maryland faces. A neighbor and I were discussing the upgrades we were making, and I noted the lack of a drain at the bottom of the driveway with a note of disbelief. “Didn’t it rain in the 1930s?” I asked. Her response was spot-on: “It did, but not like this.” She was right. Roughly 30% of the rainstorms that hit Maryland between 2007 and 2016 would have ranked in the top 1% of storms in terms of precipitation had they occurred in the 1950s, and this trend is expected to continue into the future as the warming atmosphere becomes capable of holding more water.

The scale of what will be needed to deal with the increasingly severe impacts of climate change dwarfs the actions we can take as individuals. We are all living surrounded by infrastructure, like

my house, that was built in another century to deal with another climate reality, and that is increasingly failing to meet the demands of the current moment. We must take action together, as communities and as a state, to mitigate the most immediate impacts of climate change. Jurisdictions across Maryland are already spending millions of dollars to combat the effects of extreme flooding and heat events, and those costs are being borne entirely by Maryland taxpayers.

The RENEW Act shifts the financial burden of these mitigation efforts away from Marylanders and toward the out-of-state fossil fuel companies that have contributed the most to anthropogenic climate impacts over the past three decades. These energy costs will not be passed on to consumers, but the funds the RENEW Act would bring in would help to shield Marylanders from some of the worsening toll of climate change. In this time of tightening state and personal budgets, record energy company profits, and ever-more-extreme weather events, the RENEW Act is a prudent investment in Maryland's future.

I thank you all for your consideration.

Source on rainfall data: <https://extension.umd.edu/resource/effects-climate-change-maryland/>

2025 - SB 0149 - RENEW Act.pdf

Uploaded by: Patrick Crump

Position: FAV



TESTIMONY IN SUPPORT OF SB 0149

**Responding to Emergency Needs from Extreme Weather (RENEW) Act
Education, Energy and the Environment Committee and
Finance Committee**

FAVORABLE

TO: Sen. Brian J. Feldman, Chair; Sen. Cheryl C. Kagan, Vice-Chair; and the Members of the Senate Education, Energy and the Environment Committee; and

TO: Sen. Pamela Beidle, Chair; Sen. Antonio Hayes, Vice-Chair; and the Members of the Senate Finance Committee

FROM: Rev. Kenneth Phelps, Jr., The Episcopal Diocese of Maryland

DATE: February 11, 2025

The Episcopal Church believes that global climate change is not only a scientific concern or environmental issue, but what the United Nations calls "the defining issue of our time... at a defining moment" (UN Secretary General, September 10, 2018). The Episcopal Church is committed to advocating for and supporting legislation that directly addresses climate change's impacts on environmental justice communities. Our General Convention affirms that no community, especially communities living in poverty, those who live closest to the land in subsistence cultures, and members of marginalized ethnic groups, should bear the heaviest burden of environmental pollution or degradation.

The costs of dealing with climate change and extreme weather events are already here. Ellicott City alone has had two "1,000-year storms" in the last two years, and Howard County is currently planning to spend \$228 million to help protect the city's residents from future flooding. The RENEW Act correctly places the burden of resourcing public relief for extreme weather catastrophes on the shoulders of companies that can be shown to have contributed to the problem, defined in the Act as those who have emitted more than a billion tons of greenhouse gas emissions between 1994 and 2023 and who have sufficient connection with Maryland.

The Episcopal Diocese of Maryland urges the competent Committees to support the RENEW Act, in order to protect overburdened and underserved communities from bearing the costs of extreme weather events they had no role in creating.

The Diocese of Maryland requests a favorable report.

SB149_IndivisibleHoCo_FAV_Peter Alexander.pdf

Uploaded by: Peter Alexander

Position: FAV



SB149

Responding to Emergency Needs from Extreme Weather (RENEW Act)

Testimony before the Education, Energy, and the Environment

Hearing February 13, 2025

Position: Favorable

Dear Chair Feldman and Vice-Chair Kagan, and members of the committee, my name is Peter Alexander, and I represent the 900+ members of Indivisible Howard County. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We are providing written testimony today **in support of SB149**. We appreciate the leadership of Senator Hester for sponsoring this important legislation.

Every day in the news we hear about the effects of extreme weather in Maryland and across the county. Heavy rains bring 1000-year flooding ever few years, while few of Maryland's storm water management systems are equipped to handle it. Sea level rise and tidal flooding are claiming increasing amounts of farm and other land all along Maryland's 3,000 miles of tidal shoreline. Repairing flood damage and mitigating the effects of future floods is costing Maryland taxpayers 100s of millions of dollars. A flood mitigation tunnel in Ellicott City is costing Howard County residents \$228 million, alone.

Heat waves are affecting our health and wellbeing and occur twice as frequently as in 1970. Public buildings that never previously needed air conditioning, are now at times, unable to operate. AC systems in the schools cannot handle these heat waves, forcing them to close for "heat days". Ensuring every public school in Maryland has an adequate AC system will cost Maryland over \$700 million. And that is just the schools.

The RENEW Act will bring new revenue into the state by charging large, out of state fossil fuel companies a one-time penalty for their historical emissions without burdening Maryland taxpayers. Forty petrochemical companies will be required to pay Maryland \$900 million a year for ten years, with 40% of revenues going to overburdened, underserved communities.

It is time that oil and gas companies start paying the costs we incur because of fossil fuel use.

Thank you for your consideration of this important legislation.

We respectfully urge a favorable report.

Peter Alexander, PhD
District 9A
Woodbine, MD 21797

SB 149 -RENEW-Support-Phil Webster-UULM-MD.pdf

Uploaded by: Phil Webster

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 149 - The Responding to Emergency Needs from Extreme Weather (RENEW) Act

TO: Chair Feldman and Members of the Education, Energy, and the Environment
Committee
FROM: Phil Webster, PhD, Lead Advocate, Climate Change
Unitarian Universalist Legislative Ministry of Maryland.
DATE: February 13, 2025

Today across our state, heavier rains, higher tides, and record heat are damaging our lives and infrastructure. **SB 149 - The Responding to Emergency Needs from Extreme Weather (RENEW) Act** will make the necessary investments to prepare for—and recover from—worsening extreme weather events. This is why the Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) strongly supports this legislation.

Right now, taxpayers across Maryland are paying the costs of climate change—which are adding up and contributing to the state’s projected budget shortfall—while large, out-of-state fossil fuel companies are reaping all the benefits. The RENEW Act will bring new revenue into the state—without making a single Marylander pay an additional cent—by charging these companies a one time penalty for their historical emissions.

We can’t afford NOT to support this bill.

The UULM-MD is a faith-based advocacy organization based on Unitarian Universalist Values, including Interdependence (honoring the interdependent web of all existence) and Justice (where all feel welcome and can thrive). Working to mitigate, adapt to, and build resilience for climate change is central to our beliefs.

We know that Global Climate Change impacts marginalized communities first and worst, AND investments in those communities for climate resilience and adaptation are last. The bill will ensure that forty percent of all the investments are required to go to overburdened, underserved communities, as defined by the Climate Solutions Now Act of 2022.

In order to protect the people and places that Marylanders hold dear, the state must make necessary infrastructure investments to adapt to these new extremes. These investments will make Maryland a cleaner, more resilient, and more affordable place to live. They will create jobs and help prevent disasters from ruining homes and workspaces.

UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,

www.uulmmd.org info@uulmmd.org www.facebook.com/uulmmd www.Twitter.com/uulmmd

The bill directs the state to conduct an analysis of how much anthropogenic climate impacts are costing Maryland, then directs the state to require large out-of-state fossil fuel companies to pay that amount to Maryland. The one time payment will only apply to companies that have emitted more than 1 billion tons of carbon cumulatively between 1994 and 2023. That is a short list of companies, none of which are based in Maryland.

The RENEW Act will provide the funds to make these necessary investments. It would raise \$900 million a year for 10 years and provide the dollars the state needs to build new drainage systems, upgrade HVACs in public buildings, recover when disaster strikes, and much more.

To survive climate change, Maryland needs new revenue. Governor Moore has stated that Maryland needs \$1B per year for mitigation, resilience, and adaptation. The RENEW Act can provide these necessary funds without making Marylanders bear the financial burden. Failure to adopt the Renew Act is effectively a steadily increasing tax on Marylanders to pay for the impacts of Climate Change. Maryland should waste no time in passing the RENEW Act and collecting funds from out of state energy companies and investing those funds in building a better Maryland.

We strongly support **SB 149 - The Responding to Emergency Needs from Extreme Weather (RENEW) Act** and urge a favorable report from the Committee.

Phil Webster, PhD

Lead Advocate, Climate Change UULM-MD

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Testimony in support of SB0149.pdf

Uploaded by: Ray Earnest

Position: FAV

Testimony in Support of SB0149

Education, Energy and the Environment Committee, hearing 2/13/25

Submitted on 2/11/25

To All Committee Members,

My name is Ray Earnest; I live in Caroline County, and I urge a favorable report on SB0149

This Bill will provide a funding source for achieving Maryland's greenhouse gas reduction goals. One of the biggest impediments to meeting our goals is the price tag. We already have budget constraints, and no one wants to raise taxes. Further, there are a lot of environmental and transportation projects that are already draining the funding we currently have.

This bill would require fossil fuel companies -- the source of major greenhouse gas emissions who have made, and continue to make, billions of dollars by selling fossil fuels in Maryland -- to pay their fair share of the remediation costs by precluding them from passing the costs of remediation along to Marylanders. The funding mechanism specified in this bill would raise an estimated \$900 million a year for 10 years.

Funds received from fossil fuel companies would be used to support the purchase of grid scale batteries, low-income energy efficiency, flood mitigation, retrofitting homes with electric technology, and funding for addressing minority health disparities among other programs.

I support this bill because I am very worried about climate change, which already is wreaking havoc with the weather world-wide, fueling, among other problems, horrible storms, dreadful fires, horrendous floods and unsupportable migration. Thank you for your consideration, and I look to this committee to give SB0149 a favorable report.

Sincerely,

Ray Earnest

20375 Hog Island Rd

Preston, MD 21655

Rayearnest1@gmail.com

SB 149_RENEW Act_ MDLCV Support.pdf

Uploaded by: Rebecca Rehr

Position: FAV



Kim Coble
Executive Director

2025 Board of
Directors

Patrick Miller, Chair
The Hon. Nancy Kopp,
Treasurer
Kimberly Armstrong
Caroline Baker
Joe Gill
Lynn Heller
Charles Hernick
The Hon. Steve Lafferty
Bonnie L. Norman

February 13, 2025

SUPPORT: SB 149 - Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

Chairman Feldman and Members of the Committee:

Maryland LCV supports SB 149 - The RENEW Act of 2025 - and we thank Senator Hester for her leadership on this issue, and commitment to invest in climate solutions. Maryland LCV supports the RENEW Act as a revenue generating bill for climate solutions for the following reasons:

1. Maryland has established an emissions reduction goal and developed the state's Climate Pollution Reduction Plan to achieve this goal. The Maryland Department of the Environment (MDE) has identified significant resources are needed to achieve this goal. SB 149 provides a mechanism to generate \$900M a year and allocates these funds to climate programs.
2. The bill generates significant revenue but does not put any financial burden on Marylanders by creating a Climate Change Adaptation and Mitigation Payment Program funded by the largest and most polluting fossil fuel companies that have operated in Maryland and are major global contributors to climate change.
3. The bill supports equity and justice by a) ultimately easing the burden of climate change on communities disproportionately affected by climate impacts, and b) applying a Justice 40 approach to funding.

The [Climate Pollution Reduction Plan](#) (CPRP) released by MDE at the end of 2023 outlines a needed investment of \$1 billion annually to meet the state's climate goals. In its [2024 Annual Report](#), the Maryland Commission on Climate Change (Commission) emphasized that "Maryland taxpayers should not have to pay the full cost of constantly escalating climate change impacts in the state from sea-level rise, severe storms, and health impacts." The Commission Report goes on to recommend that Maryland join other states in assessing a fee on major carbon polluters, one that cannot be transferred to consumers, to generate funds to compensate the State of Maryland for climate impacts. Likewise, modeling in Maryland's CPRP shows that a policy that would require polluters to pay for their pollution and provide at least \$1 billion per year for clean economy investments could help Maryland achieve its goal of a 60% reduction in greenhouse gas emissions by 2031.

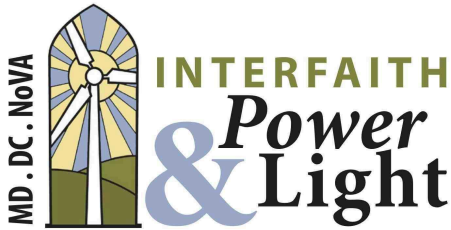
This bill also incorporates environmental justice principles, directing at least 40% of the Climate Change Adaptation and Mitigation Fund be used for initiatives that protect overburdened and underserved communities from the effects of climate change. The funding can also be used to support supplemental funding for the state Commission on Environmental Justice and Sustainable Communities, and hiring at MDE to improve permitting processes and community outreach efforts. Several states, including New York and Vermont, have already passed similar legislation, and other states including California, Minnesota, New Jersey, Virginia, and Massachusetts are considering it.

Maryland is already experiencing damage from climate change, with [8, billion-dollar disaster events in 2024 alone](#). Asking large fossil fuel extracting and refining companies to pay their fair share for the damage their activities and products are causing is a commonsense, rational, and essential step for Maryland to take. Maryland LCV urges a favorable report on this important bill.

IPL-DMV FAV Testimony for RENEW.pdf

Uploaded by: Rev. Kip Banks Sr.

Position: FAV



**Testimony Supporting SB0149
Senate Education, Energy, and the Environment
February 2025**

Position: FAVORABLE

Dear Chair Feldman, Vice Chair Kagan, and members of the committee,

On behalf of congregations across Maryland working together through Interfaith Power & Light (DC.MD.NoVa), we respectfully request a **favorable report** on **SB0149, the Responding to Emergency Needs from Extreme Weather (RENEW) Act**.

All of our traditions require those who cause harm to take responsibility and make amends. A few industrial polluters bear most of the responsibility for the burning of fossil fuels that has damaged our climate. But so far, Maryland's vulnerable neighbors and communities being harmed by climate change are being left to manage these harms alone.

The climate impacts of pollution are being felt locally by Marylanders now. Our coastal communities are seeing unprecedented levels of flooding and once in a generation storms happening more and more often. In our homes, gas burning appliances have led to increased levels of asthma in young children and COPD complications in older adults. Across the state, labor workers are working in extreme temperatures in both summer and winter. Meanwhile, the biggest polluters who bear the responsibility for these extreme events are not being held accountable.

Passing SB0149 is about accountability, but it is also about preparedness. We can no longer put off the work to mitigate climate impacts in our state. And just as the costs of climate mitigation shouldn't be borne by communities alone, it also should not fall to Maryland taxpayers. This bill would require polluters themselves to help fund necessary work to undertake physical mitigation, address health disparities, and meet our state climate goals while ensuring our most vulnerable neighbors are adequately equipped during this transition.

Communities of faith across the state have long spoken up in protection of our common home and our neighbors. Now more than ever, we call on our state leaders to practice strong leadership and do the same. The RENEW Act provides the resources necessary to get this done in an equitable and just way and it will need the support of this committee.

We know that the corporations that profited by damaging our climate for so many decades will not cheerfully pay their share of the cost of addressing climate harms in Maryland. Implementing the RENEW Act is going to be a fight, and we believe it is a righteous fight on behalf of so many Marylanders who will need our protection to face rising seas in a damaged climate. This is a moment for bold action to do right by the communities you represent.

Today, our faith communities are raising our voices to hold polluters responsible for the climate damage they have caused in Maryland. The costs of damaging our climate should be borne by the polluters who profited by burning fossil fuels, not by our communities. For this reason, **we urge a favorable report on SB 149.**

Testimony in support of SB0149 - Responding to Eme

Uploaded by: Richard KAP Kaplowitz

Position: FAV

SB0149_RichardKaplowitz_FAV
02/13/2025

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON SB#/0149 – FAVORABLE
Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

TO: Chair Feldman, Vice Chair Kagan and members of the Education, Energy and the Environment Committee

FROM: Richard Keith Kaplowitz

My name is Richard K. Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of SB#0149, **Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025**

Maryland has an ambitious program to reduce the use of fossil fuels to ameliorate the effects of climate change in our state. Fossil fuel extraction and refinement are exacerbating the problems we are facing. This bill is an attempt to put a financial cost on the continued use of those fuel sources while we transition away from them to provide the state revenue for adaptation and mitigation of health harms from these fuels.

My Jewish faith reminds me “Please G-d, give us wisdom and skillful hands to heal the Skies and the Earth from our sins; *Y'kum purkan lish'maya* 'May salvation arise for the heavens'. that the blessings of the sun flow over us, for life and not for death, for blessing and not for curse”. Fossil fuels are stored sunlight energy that we must manage positively to protect ourselves from the negative impacts of releasing that energy.

Maryland can begin to realize these goals by passing this bill that will establish the Climate Change Adaptation and Mitigation Payment Program in the Department of the Environment to secure payments from certain businesses that extract fossil fuels or refine petroleum products in order to provide a source of revenue for State efforts to adapt to and mitigate the effects of climate change and to address the health impacts of climate change on vulnerable populations. The methodology contemplated establishing the Climate Change Adaptation and Mitigation Fund to support efforts to mitigate the effects of climate change.

This bill facilitates addressing health impacts of climate change and can provide environmental justice to vulnerable populations already facing extreme effects from climate change caused by fossil fuels sited within or near those communities.

Fixing the problem and moving towards Maryland clean energy goals requires a plan to do so and the funding to make it happen. This bill moves the costs of fixing problems to those who are major contributors to those problems. It is a commonsense solution to move Maryland forward.

I respectfully urge this committee to return a favorable report on SB#0149.

SB 149_Maryland Catholics for Our Common Home_FAV.

Uploaded by: Robert Simon

Position: FAV



Hearing before the Senate Education, Energy, and the Environment Committee
Maryland General Assembly
February 13, 2025

**Statement of Support (FAVORABLE)
of Maryland Catholics for Our Common Home for
SB 149, the Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025**

Maryland Catholics for Our Common Home (MCCH) is a lay-led organization of Catholics from parishes in the three Catholic dioceses in Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington. It engages in education about, and advocacy based upon, the teachings of the Catholic Church relating to care for creation and respect for all life. MCCH is a grassroots voice for the understanding of Catholic social teaching held by a wide array of Maryland Catholics. In the 2024 Legislative Session, 570 Maryland Catholics from 22 different Catholic parishes and religious communities across the State joined together through MCCH to support several key environmental bills under consideration by the General Assembly. MCCH is independent, though, and should be distinguished as an organization from the Maryland Catholic Conference, which represents the public policy positions of the bishops who lead these three dioceses.

Because we are attuned both to the cry of a distressed Earth and the cry of the poor who suffer first and foremost from a warming planet, **MCCH would like to express our strong support for Senate Bill 149: Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025.**

In his 2015 encyclical, entitled *Laudato Si': On Care for Our Common Home*,¹ Pope Francis called for a comprehensive response to the threats from climate change, including especially “an urgent need to develop policies so that, in the next few years, the emission of carbon dioxide and other highly polluting gases can be drastically reduced (by) substituting for fossil fuels and developing sources of renewable energy.” (*Laudato Si'*, no. 26)

In his 2023 apostolic exhortation on the climate crisis, *Laudate Deum*²—a follow-up to *Laudato Si'*, Pope Francis sounds an even more urgent cry to do much more about reducing carbon dioxide and other greenhouse gas emissions. “I have realized that our responses have not been adequate, while the world in which we live is collapsing and may be nearing the breaking point. In addition to this possibility, it is indubitable that the impact of climate change will increasingly prejudice the lives and

¹ The English text of the encyclical, to which the paragraph numbers in the parentheses refer, can be found at: https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html.

² The English text of this apostolic exhortation, to which the paragraph numbers in the parentheses refer, can be found at: https://www.vatican.va/content/francesco/en/apost_exhortations/documents/20231004-laudate-deum.html.

families of many persons. We will feel its effects in the areas of healthcare, sources of employment, access to resources, housing, and forced migrations.” (*Laudate Deum*, no. 2)

Maryland has admirably risen to the challenges that have impelled these statements by Pope Francis through *Maryland’s Climate Pollution Reduction Plan*, which was released by the Department of the Environment in 2023. A key challenge in implementing this forward-looking plan, though, is finding the necessary revenue. This challenge has been made more acute by Maryland’s large structural budget deficit. As urgent as the need for climate action is, responding to this need is in competition for budget resources with other worthy public goals. This competition for limited resources will become even more dire in the coming year, as Federal funds for public needs such as education appear to be targeted for steep reductions by the incoming Administration. The solution is to find sources of new funding that can be dedicated to climate-related infrastructure upgrades, building upgrades, special programming, and energy investments—without resorting to mechanisms that impose additional costs directly on Maryland residents, and especially its poorest citizens.

In this regard, MCCCH believes that the Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025 should be enacted. The RENEW Act, based on the “polluters pay” premise that undergirds the Federal Superfund program, has **no consumer pass-through**. It holds the largest, most polluting fossil fuel companies strictly liable for the damage caused by the climate change impacts that all Marylanders, and especially Maryland’s most vulnerable communities, are experiencing. **Collecting it will not affect Marylanders’ pocketbooks.**

The benefits of being able to achieve the vision of *Maryland’s Climate Pollution Reduction Plan* through adequate funding are enormous. Dedicated climate and climate-related public health funding is essential if Maryland’s most vulnerable populations are to be protected from the chronic impacts of a changing climate. For example, the lowest-lying neighborhoods in Baltimore are disproportionately inhabited by low-income communities of color. These neighborhoods are barely above sea level, and are increasingly pummeled by heavy downpours resulting from the additional moisture in our warming atmosphere—resulting in local flooding, waterlogged soil, and backed-up sewage.

The RENEW Act will help raise the funding needed to implement *Maryland’s Climate Pollution Reduction Plan*—a plan for infrastructure projects that will help Maryland adapt to our warming planet—without exacerbating the state’s structural deficit problems.

For these reasons we strongly urge your support for this bill. Thank you for your consideration of our views and our respectful request for a **favorable** report on Senate Bill 149.

RENEW Act 2025 Testimony - Senate - Google Docs.pd

Uploaded by: Robert Wald

Position: FAV

SB149 - SUPPORT

Robert Wald and Pamela Steele
Silver Spring, MD
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SB 149 — Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Joint Meeting of Education, Energy, and the Environment and Finance Committees
February 13, 2025

Dear Chairs Feldman and Beidle, Vice Chairs Kagan and Hayes, and Members of the Education, Energy, and the Environment and Finance Committees,

We urge a favorable report on SB0149. Currently, Maryland taxpayers like us are stuck paying the full cost of climate disasters and adaptation projects. This goes for large municipal and state climate mitigation and adaptation efforts as well as for climate disasters and damage to taxpayers' personal property.

For example, about six years ago, we had to spend \$15,000 on stormwater drainage around our home and had to install extra large gutters and downspouts to handle exceptional rain events that, due to climate change, are now more the norm than the exception. Many of our Silver Spring neighbors have had to take similar measures, and others cannot afford to do so. Homes that never flooded (our neighborhood was built in the 1940s) now flood regularly.

In addition, our homeowners insurance has been going up significantly the past few years even though we've never filed a claim. We are, of course, paying for climate damages to other people's homes, and you are as well. This situation affects renters, too, because increased building insurance costs get passed down to tenants in the form of rent increases. In this sense, climate change is a housing affordability issue.

We and our neighbors—homeowners and renters alike—need and deserve a break, and that's precisely what the RENEW Act offers. RENEW requires out-of-state oil and gas companies to pay for the cost of climate disasters and adaptation, and it does so in a way that prevents those companies from passing on the cost to consumers. Plus, it's only fair that the companies that have caused climate change pay for the damage they are causing.

Please do the right thing for Maryland taxpayers, and pass the RENEW Act. We urge a favorable report.

Third Act Maryland Senate Testimony - RENEW Act.pd

Uploaded by: Robert Wald

Position: FAV



SB149 - SUPPORT

Robert Wald
Third Act Maryland
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301-326-5181

SB149 — Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Joint Meeting of Education, Energy, and the Environment and Finance Committees
February 13, 2025

Dear Chairs Feldman and Beidle, Vice Chairs Kagan and Hayes, and Members of the Education, Energy, and the Environment and Finance Committees,

On behalf of Third Act Maryland, I urge a favorable report on SB0149. Currently, Maryland taxpayers pay the full cost of climate change in our state, shouldering the burden of climate impacts such as flooding, extreme heat, saltwater intrusion, and worsening public health. The RENEW Act will shift a significant portion of the cost of climate adaptation from taxpayers to companies that contributed to the climate crisis and have earned handsome profits in the process.

Maryland faces a budget crisis at the same time it faces rising costs associated with extreme weather events, events that exacerbate the state's budget crisis. Maryland cities and counties find themselves in similar straits, with Annapolis spending some \$50 million to upgrade their dock in the face of rising seawater; Baltimore paying to install air conditioning in its schools so students don't have to be sent home on extreme heat days; and Howard County spending \$228 million to address flooding in Ellicott City. Then there are the climate costs faced by homeowners and renters; climate change is a housing affordability issue, as building damage and insurance rates increase.

Maryland taxpayers need and deserve a break, and that's precisely what the RENEW Act offers. RENEW requires out-of-state oil and gas companies to pay for the cost of climate adaptation, and it does so in a way that prevents those companies from passing on the cost to consumers.

There is nothing more costly to the state of Maryland and its residents than climate change, and those costs are rising quickly. It's only fair and just that the companies that have done the most to cause climate change pay their fair share for climate mitigation and adaptation.

The following Maryland residents have signed on to this testimony in support of SB149:

Pamela Steele

Laurie Welch

Krista Kurth

Uta Allers

Debbie Gousha

Maryrose Wilson

Donna McNamara

Ruth Lampi

Brien McNamara

Meryl Thomas

Bill Kojola

Robert Wald

Maria Lonsbury

Kate Sugarman

SB0149_RENEW_FAV_ClimateCC.pdf

Uploaded by: Sonia Demiray

Position: FAV



SB0149 - SUPPORT

Sonia Demiray

Climate Communications Coalition

sonia@demirayink.com

202-744-2948

**SB0149- Responding to Emergency Needs from Extreme Weather
(RENEW) Act of 2025**

Joint Meeting of Education, Energy, and the Environment and Finance Committee

February 13th, 2025

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy and the Environment and Finance Committees,

My name is Sonia Demiray, I am the Executive Director of the Climate Communications Coalition, a member of the Mid-Atlantic Justice Coalition and the Maryland Climate Justice Wing. The Climate Communications Coalition strongly supports SB0149.

Requiring big polluters, who have knowingly harmed our climate and our environment, to pay a tiny portion to help remedy the consequences of their actions, is a logical step. Frankly, we should consider increasing the percentage of the profits taken. After all, cleaning up after yourself is not just a social norm, it can also be legally enforced as a crime or a tort. This also applies to pollution causing climate change: the extreme weather patterns and temperatures that we are witnessing today were predicted since the 1970's or earlier. Yet these same companies hid the data, lied to the public, and continued to rake in growing profits. And they continue to do so today.

This bill is popular because it would raise around \$9 billion and help solve the current funding problems largely caused by the polluters: Maryland is struggling to build up climate-resiliency, to heal the damage caused to our communities, and to protect communities, fauna, and flora from further harm. Polluters must pay for the consequences of their actions.

If there were an amendment to this bill, we suggest confiscating advertising, media, and communications budgets of the big polluters. These companies continue to pollute our air, waters and soils at the same time that they're funding massive misleading advertising campaigns positioning themselves as 'clean energy' or 'leading the way in clean energy research.' We suggest confiscating any portion of their production, media, and outreach budgets that would reach Maryland audiences, and use these funds to provide truthful and data-driven information about the climate emergency and public service campaigns that help generate resiliency in our communities. We need to prepare Marylanders for the impact of life-threatening and expensive weather events caused by these polluters. We urge a favorable report on SB0149.

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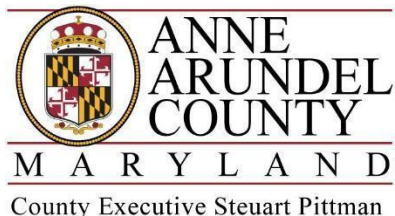
www.ClimateCC.org

106 North Market Street. Frederick, MD 21701

Anne Arundel County _FAV_SB149.pdf

Uploaded by: Steuart Pittman

Position: FAV



February 13, 2025

Senate Bill 149

**Responding to Emergency Needs From Extreme Weather
(RENEW) Act of 2025**

Senate Education, Energy, and the Environment Committee

Position: FAVORABLE

Anne Arundel County **SUPPORTS** Senate Bill 149 – Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025. This Bill establishes the Climate Change Adaptation and Mitigation Payment Program and the Climate Change Adaptation and Mitigation Fund within the Maryland Department of the Environment (MDE) and would provide a source of revenue for State efforts to (1) adapt to and mitigate the effects of climate change and (2) address the health impacts of climate change on vulnerable populations.

Costly and often devastating effects of flooding, storms, and extreme heat are already being felt with growing intensity across our region. This is especially true of areas like Annapolis, having experienced the largest increase of nuisance flooding in any U.S. city in nuisance flooding days over the last 50 years. The challenges facing coastal communities like Anne Arundel County are significant and imminent. With more than 500 miles of coastline, what makes the County such a unique and wonderful place is what makes it uniquely vulnerable. Responding to these threats requires substantive policy approaches that have the well-being of current and future generations in mind.

That is why our local, city, county, and state elected officials created the Resilience Authority of Annapolis and Anne Arundel County (Resilience Authority), the first multi-jurisdictional resilience authority in the nation. By creating the Resilience Authority, our goal was not only to accelerate the pace and scale of climate action, but to ensure that we are prepared to compete for substantial public and private funding, taking some of the burden off of local taxpayers while investing in the future of our County. Over the past 12 months, our Resilience Authority has secured nearly \$23 million in federal, state, and local funding and is actively pursuing an additional \$52 million to protect city and county shorelines, communities, and residents from climate threats. Funding is slated towards infrastructure projects that will address coastal flooding, beach restoration, shoreline erosion, developing green spaces, and supporting the conversion of the county fleet to electric vehicles. Projects are made possible through a combination of sources that include local grants as well as funding from federal, state and private funding.

We are in a historic moment for resilience building efforts. At the same time, we are in an era in which the pace, scale, and impact of change are greater than anything we have previously confronted. To ensure that the pace of intensifying change does not outstrip our efforts, now is the time to double down and is why we are supportive of this Bill as well as the Governor's strategic investments that will allow us to take more ambitious action and show that, if we act now, we can still secure a liveable sustainable future for all.

Accordingly, Anne Arundel County respectfully requests a **FAVORABLE** report on Senate Bill 149.

SB0149_FAV_Cheston.pdf

Uploaded by: Susan Cheston

Position: FAV

SB0149 - SUPPORT

Susy Cheston
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202-549-3656

SB0149- Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Joint Meeting of Economic Matters and Environment and Transportation Committee

February 13, 2025

Dear Chair Feldman, Vice Chair Kagan, and members of the Education, Energy, and the Environment Committee,

As a longtime Maryland resident and volunteer with CCAN, I urge a favorable report on SB0149.

This is a really rough budget year for Maryland. As a taxpayer, I don't want to bear the financial burden of adapting to climate change. I urge you to pass the RENEW Act, so the polluters will pay for the mess they've made rather than people like me.

Driving between Route 50 and the Navy Stadium, you cross Weems Creek, where my sister lives with her husband in the house he grew up in. If you look high up in the trees around their house, you can see the shredded remains of a toddler wading pool as well as insulation that blew there from a house 2 miles away. This debris was deposited there by the EF-2 tornado in September 2021 that ripped through Annapolis with peak wind speeds about 125 mph. It's too high for the tree service to remove, so it serves as a permanent reminder of the damage that Annapolis.gov calls "a disaster the likes of which the city had rarely seen."

Growing up in Annapolis, tornadoes were unheard of. But climate change has made the unthinkable happen all over the country, and Maryland is no exception.

Who pays for the clean-up and repairs? Government? Insurance companies, which pass on the costs through higher premiums? Individual homeowners? Luckily, my sister had good homeowner's insurance that covered the cost of the damage when the rains poured into her house after the tornado sent a tree through her roof, as well as the cost of removing a devastating number of fallen oak trees. But as we see in California today, many insurance companies increasingly decline to cover climate-related damage such as from fire and floods.

The RENEW Act shifts costs from Maryland taxpayers to fossil fuel companies in order to protect Marylanders from the escalating costs of climate change impacts such as saltwater intrusion, intense rain events, flooding, extreme heat, and the public health impacts associated with these types of events. It provides taxpayer relief in a year when Maryland's budgets are hard hit.

Please be loyal to Marylanders who are bearing the brunt of climate change and not to fossil fuel companies that helped bring about the climate disasters that are becoming so shockingly frequent and severe.

If you believe ordinary Marylanders aren't affected, come look at the remains of the wading pool high up in an oak tree just off Rowe Boulevard.

Thank you,

Susy Cheston

SB149_FAV_SWASC.pdf

Uploaded by: UM SWASC

Position: FAV

TESTIMONY IN SUPPORT OF SB 149

Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025

Education, Energy, and the Environment Committee

Finance Committee

February 13, 2025

Social Work Advocates for Social Change (SWASC) strongly supports SB 149, the Responding to Emergency Needs from Extreme Weather (RENEW) Act, which will provide vital investments in disaster relief and preparedness for Maryland. The RENEW Act addresses the rising costs of climate change-driven extreme weather events by ensuring that the largest international fossil fuel companies, which bear historical responsibility for climate change, fund critical climate adaptation efforts.

Extreme weather events are becoming more frequent, destructive, and expensive in Maryland. According to the National Centers for Environmental Information, 2024 saw the highest number of high-cost extreme weather events in Maryland than any other year since 1980.¹ Eight extreme weather events in 2024 were more events in a single year than in 1980-1989 combined. At the same time, expenditures to combat these events are increasing across the state: Saint Mary's County spends \$950,000 annually to upgrade stormwater management systems for heavier rains, Annapolis is allocating \$54 million to mitigate chronic flooding at its dock, and Howard County is spending \$228 million to bore an 18-foot tunnel under Ellicott City to prevent devastating floods.² The rising cost of extreme weather events is currently paid by Maryland taxpayers.

Under the RENEW Act, fossil fuel companies that emitted more than one billion tons of greenhouse gases between 2000 and 2018 are required to pay a one-time fee totaling \$9 billion per the 2024 version of the bill.³ This fee is equivalent to only 2.3% of the total profits made by the 8 largest fossil fuel producers in 2022.⁴ These companies knew about the impacts of their emissions and failed to act, contributing significantly to the climate crisis we

¹ U.S. Billion-Dollar Weather and Climate Disasters (2025). NOAA National Centers for Environmental Information (NCEI). <https://www.ncei.noaa.gov/access/billions/>. DOI: [10.25921/stkw-7w73](https://doi.org/10.25921/stkw-7w73)

² *The Renew Act - CCAN Action Fund*. CCAN Action Fund - Chesapeake Climate Action Network Action Fund. (2025). <https://ccanactionfund.org/renewact/>

³ *The Renew Act - CCAN Action Fund*. CCAN Action Fund - Chesapeake Climate Action Network Action Fund. (2025). <https://ccanactionfund.org/renewact/>

⁴ Eisner, E. (2024). *Fact sheet: Climate change superfund act*. Fiscal Policy Institute. <https://fiscalpolicy.org/fact-sheet-climate-change-superfund-act>

face today. By placing the financial responsibility on polluters, rather than taxpayers, Maryland can invest in vital climate adaptation projects without increasing the economic burden on its residents.

Maryland's communities, particularly low-income and historically marginalized populations, are disproportionately affected by climate change. Studies have shown that majority Black and low-income zip codes in Baltimore City have hospitalization rates for asthma three times higher than the state average, exacerbated by climate-driven air pollution.⁵ The RENEW Act directs 40% of its funds to vulnerable communities, ensuring that those most impacted by climate change are prioritized in adaptation efforts.

Maryland is falling behind as similar legislation is gaining traction in other states. Vermont and New York passed similar bills in 2024 in the form of a climate change Superfund.⁶ Additionally, California, Massachusetts, and New Jersey are considering their own versions, and Senator Chris Van Hollen has reintroduced a federal Climate Superfund for the 2025 Congress. Maryland has historically been a leader in state-led climate change efforts and the passage of The RENEW Act will set a standard for concurrent efforts around the nation.

The RENEW Act will raise needed revenue without passing on costs to consumers. According to Nobel prize-winning economist, Joseph Stiglitz, fossil fuel companies affected by the Superfund fees are unable to raise crude oil prices due to competition from other companies.⁷ If prices were raised, companies unaffected by the Superfund could then undercut them. Additionally, the cost of crude oil is determined in a global market, limiting the influence of individual companies on price.

Climate change is no longer a distant threat but an immediate crisis that requires bold and equitable solutions. Marylanders deserve infrastructure that can withstand a warmer, wetter future, and the RENEW Act ensures that those responsible for climate change bear the cost of necessary adaptations. **For these reasons, Social Work Advocates for Social Change urges a favorable report on SB 149.**

⁵ Maryland Asthma Control Program. (2011). *Asthma in Baltimore City*. Maryland Department of Health. https://health.maryland.gov/phpa/mch/documents/asthma_control/Profile_BaltimoreCity.pdf

⁶ Brown, J. (2025). *Proposed polluters pay climate fund act seeks to hold polluters accountable for climate costs*. Happy Eco News. <https://happyeconews.com/proposed-polluters-pay-climate-fund/>

⁷ DiPaola, C. (2024). *Nobel prize winning economist to Ny Gov: Superfund Act will save New Yorkers money*. Make Polluters Pay. <https://makepolluterspay.net/nobel-prize-winning-economist-to-ny-gov-superfund-act-will-save-new-yorkers-money/>

SB 0149 FAV FCG GR LS25 Testimony.pdf

Uploaded by: Victoria Venable

Position: FAV



FREDERICK COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

Jessica Fitzwater
County Executive

Victoria Venable, Director
Government Relations

SB 149 – Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

POSITION: Favorable
DATE: February 13, 2025
COMMITTEE: Senate Education, Energy, and the Environment Committee

On behalf of Frederick County Executive Jessica Fitzwater, I urge the Economic Matters Committee for a favorable report for SB 149 - Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025.

Frederick County has experienced firsthand the severe impacts of climate change, including extreme heat, drought, intense storms, and flooding. In 2023 and 2024, our farmers faced significant hardships due to prolonged drought conditions, and the County has also endured damaging storms that have stressed our infrastructure and economy. The need for climate adaptation and resilience efforts is urgent, as extreme weather events continue to increase in frequency and intensity.

The RENEW Act is a vital piece of legislation that would create a Climate Mitigation and Adaptation Fund through a one-time fee on large fossil fuel companies responsible for the majority of greenhouse gas emissions. The funds raised would support local climate programs, including stormwater management, infrastructure upgrades, and flood prevention initiatives, helping communities like ours prepare for the worsening impacts of climate change.

This bill also prioritizes investments in overburdened communities that have faced the brunt of pollution and climate-related challenges. With broad public support for these types of policies, the RENEW Act offers an important funding mechanism to help Maryland build resilience and protect vulnerable communities.

I urge the Committee to issue a favorable report on SB 149.

RENEW Testimony before Senate EEE Committee.pdf

Uploaded by: Vincent DeMarco

Position: FAV

Testimony Before the Senate Education, Energy and Environment Committee

In Support of Senate Bill 149 – The RENEW Act

By Vincent DeMarco, Maryland Citizens' Health Initiative

February 13, 2025

Mr. Chair, Madam Vice-Chair and Members of the Senate Education, Energy and Environment Committee, on behalf of the Maryland Citizens' Health Initiative, I am here to support, SB 149, the Responding to Emergency Needs from Extreme Weather (RENEW) Act. We commend Senator Katie Fry for sponsoring this legislation. Thanks to the Affordable Care Act and to the leadership of the Maryland General Assembly, our state has made great strides in expanding health care coverage, reducing the percentage of our people without health insurance from 13% to 6% in the last few years. We have also worked hard to reduce unconscionable health disparities in our state, including by enacting the Health Equity Resource Communities Act of 2021. But, as Governor Wes Moore said in his Inaugural address, we must do all we can to expand coverage to the hundreds of thousands of our fellow Marylanders still without health care coverage and achieve health equity. We can only accomplish these goals with a new revenue source which would fund our goal of health equity for all Marylanders. Because SB 149 allocates a portion of the proceeds from this program to fund health care needs and to reduce climate and health disparities, we strongly urge you to pass this life saving measure. I am submitting this testimony on behalf of our individual organization, Maryland Citizens' Health Initiative, Inc., because we have not reviewed this legislation with our entire Maryland Health Care For All! Coalition.

SB149_FAV_MASCIOLI.pdf

Uploaded by: William Mascioli

Position: FAV

SB149 - SUPPORT
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**SB 149- Responding to Emergency Needs from Extreme Weather (RENEW)
Act of 2025**

Joint Meeting of Education, Energy, and the Environment and Finance
Committees February 13, 2025

Dear Chair Feldman, Vice Chair Kagan, Members of the Education, Energy, and the Environment Committee, Chair Beidle, Vice Chair Hayes, and Members of the Finance Committee.

I urge a favorable report on SB149, the Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025. Maryland will experience increasingly severe consequences of climate change. This cannot be avoided. But who should pay for those consequences: the citizens of Maryland or the fossil-fuel companies that knowingly and recklessly generated the greenhouse gases that cause global warming? Passing the RENEW Act will relieve Maryland taxpayers of the financial burden of adapting to climate change while helping the state address our budget shortfall without making any Marylanders pay an additional cent in taxes or energy costs.

I am proud to have been a resident of Montgomery County for just short of 40 years. One of the things that makes me proud to be a Marylander is our state's political good sense and legislative leadership. In recent years, the burgeoning climate crisis has been a paramount concern to me, and for that reason I have long been a member of the Chesapeake Climate Action Network (CCAN).

My concerns about global warming are both moral and practical. Moral, because I deeply believe that we have an obligation to take care of the planet that sustains us, and in particular not to despoil it in ways that cause consequences that are unjustly distributed among existing communities and foisted upon future generations. My wife and I used to lament the fact that my daughters are disinclined to give us grandchildren, but now we are, frankly, relieved- because we dread the idea that they would be born into a world of rising oceans and savage storms and the political disruptions to which those will foreseeably lead.

My practical concerns are that we are inadequately prepared to deal with the calamitous natural changes that are already inevitable due to existing rates of global warming.

The RENEW Act is a well-constructed legislation that will go far toward dealing with these concerns. Right now, extreme weather events are driving up costs for Marylanders and contributing to the state budget crisis. Annapolis is spending over \$50 million to contend with chronic flooding, Baltimore City is paying to install air conditioning in public schools like City College because of hotter weather, Howard County is spending over \$228 million to combat flooding in Ellicott City, and similar costs afflict nearly every jurisdiction across the state.

These costs cannot be walked away from; the only question is how we will pay for them. They are currently borne by Maryland taxpayers, even though they are a direct and (as has been amply demonstrated) *foreseen* result of actions taken by the fossil fuel industry, which has been able to write them off as externalities.

The RENEW relieves taxpayers of this financial burden and forces out-of-state fossil fuel companies to pay for the cost of adapting to climate change. Further, it prevents those companies from passing those costs on to consumers.

The bill directs the state to conduct an analysis of how much anthropogenic climate impacts are costing Maryland, then directs the state to require the largest out-of-state fossil fuel companies to pay that amount to Maryland. The one-time payment will only apply to companies that have emitted more than \$1 billion tons of carbon cumulatively between 1994 and 2023. That is a short list of companies, none of which are based in Maryland. The payments would create a climate mitigation and adaptation fund that would support dedicated investments in climate resilience across the state and across issue areas including health, infrastructure, fuel switching, schools, and disaster preparedness.

A growing number of states have recognized the wisdom of this approach. New York and Vermont have passed similar legislation, and California, Massachusetts, Minnesota, New Jersey, and Virginia are considering doing so. Senator Van Hollen has reintroduced a similarly structured federal bill. Let's not allow Maryland to fall behind on this, perhaps the most crucial crisis of our time.

RENEW Act Maryland Senate Testimony Feb 11 2025.pd

Uploaded by: William Piermattei

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 149
Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025
Senate Education, Energy, and the Environment Committee
February 13, 2025
Submitted by Professor William Piermattei¹

I am writing in support of Senate Bill 149, the RENEW Act (cross-filed with HB 128) and to address legal concerns related to the legislation. This bill will provide funds for addressing State efforts to adapt and mitigate the effects of climate change through payments from the businesses most responsible for (and who have profited the most from) fossil fuel products that have caused climate change and its attendant damages to Maryland. Given concerns raised to date about the constitutionality of the bill, it is likely that the bill will survive judicial scrutiny under current precedent.

The RENEW Act (“the Act”) establishes a climate change adaptation fund and an administrative process to determine: (1) the extent of future climate change damages in Maryland and the cost to address them; (2) “responsible parties,” those business entities whose products and processes contributed the most to climate change; (3) allocation of a portion of the costs to each responsible party based on their share of GHG emissions; and (4) determination of qualified expenditures from the fund to address climate change adaptation measures. The Act holds responsible parties strictly liable for cleaning up the damage their businesses and products have caused, similar to the federal “Superfund” law (CERCLA) holding responsible parties strictly liable to pay for clean-up of improperly disposed hazardous chemicals. *See*, 42 U.S.C. §9607. The RENEW Act is similarly structured and an extension of the “polluter pays” principle that undergirds many environmental laws. Both Vermont and New York have recently passed similar laws, both have recently been challenged in court.

Not surprisingly, the American Petroleum Institute, representing many of the responsible parties under the Act, filed objections alleging that the Act *may* be unconstitutional because it: (1) constitutes retroactive law making; (2) violates the dormant commerce clause; (3) imposes arbitrary penalties and fines creating due process and fairness issues; and (4) it is preempted by federal law.

1. Retroactivity

Legislation can impose retroactive liability provided that the legislation has a “legitimate legislative purpose furthered by rational means.” *Pension Benefit Guarantee Corp. v. R.A. Gray & Co.*, 467 U.S. 717, 729 (1984). The Superfund law (CERCLA) passed this test, imposing liability for decades-old hazardous waste disposal, legal at the time, because cleaning up hazardous waste is a legitimate government purpose, the amount

¹ This testimony may not represent the position of the University of Maryland Carey School of Law; the University of Maryland, Baltimore; or the University of Maryland System.

assessed was proportional to that purpose, and it was “foreseeable at the time that improper disposal could cause enormous environmental damage.” *U.S. v. Monsanto Co.*, 858 F.2d 160, 174 (4th Cir. 1988); *see also, Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1 (1976) (retroactive liability in Black Lung Benefits Act satisfied because legislation had legitimate purpose and not enacted in “arbitrary or irrational manner”).

Here, there is no question that the state interest is compelling and vital: funding infrastructure needs to deal with climate change. The Act provides an administrative process to determine both climate damages and apportioning liability to those who contributed the most in bringing about those harms. Finally, the responsible parties knew or should have known their products would cause climate change harms. The Act sets the period of liability (approx. 1994-2024) at a time when the U.N. Framework Convention on Climate Change went into effect (1994); i.e., when governments around the world recognized the dangers climate change posed and its link to fossil fuel use. *See, Owens Illinois v. Zenobia*, 325 Md. 420, 437 (1992) (manufacturers held to knowledge of experts in the field).

2. Dormant Commerce Clause

The dormant commerce clause prevents states from excessively burdening interstate commerce or discriminating against out-of-state businesses to benefit in-state businesses. *Pike v. Bruce Church*, 397 U.S. 137, 142 (1970). First, the RENEW Act does not explicitly discriminate against out-of-state interests. The applicability test (1 billion tons of GHG emissions) applies to any entity doing business in Maryland, i.e., Maryland has personal jurisdiction under the Constitution, whether they are a Maryland business or not.

The Supreme Court recently upheld a California law banning the sale of pork raised in an inhumane manner. *Nat. Pork Producers Council v. Ross*, 143 S.Ct. 1142 (2023). The court upheld the law even though virtually all pork sold in California came from out-of-state because: (1) the statute advanced a legitimate state interest; (2) the statute applied to both in-state and out-of-state pork producers even-handedly; and (3) the “extraterritoriality doctrine” (a state cannot regulate conduct outside its borders) is not a basis for striking down a state law. *Id.* Here, the state interest advanced is vital: protecting Maryland’s infrastructure. Second, the legislation does not protect or favor Maryland businesses. Finally, as the Supreme Court noted in the *Pork Producers* case, nearly all state laws regulating products sold will have *some* extraterritorial effect and therefore that cannot be a basis for striking down the law. *Id.* at 1154-56 (explaining rejection of extraterritoriality)

3. Arbitrary or excessive “fines” or “penalties” and unfairness

To begin, the RENEW Act fees assessed to “responsible parties” in creating climate change and its harms in Maryland are not “penalties” or “fines” or “punishment” as the

API asserts in its opposition to the Act.² Rather, they are compensatory in nature (to compensate for harm inflicted) and not punitive (to penalize or punish for wrongdoing). Put simply, several of API's legal objections rely on this erroneous description of RENEW Act fees as “penalties” or “sanctions” or “punishment.” *Compare, BMW v. Gore*, 116 S.Ct. 1589, 1595 (1996) (punitive damages punish unlawful conduct and deter repetition) with Black’s Law Dictionary, “compensatory damages compensate the injured party for the injury sustained, and nothing more.” Second, there is nothing unfair for a law requiring a handful of companies (that have profited hundreds of billions selling products that will increasingly harm Maryland) to pay for some of the costs to address those harms. Finally, the administrative process to establish liability would be developed in a transparent way and provide the responsible parties legal recourse to challenge those determinations, thereby addressing due process concerns.

4. Preemption

Pursuant to the U.S. Constitution Supremacy Clause, federal law would preempt state law if Congress intended federal law to "occupy the field" (implied preemption) or by expressing this intent in the federal statute. In addition, state law can be preempted if it conflicts with a federal law (e.g., adhering to state law would violate federal law) or is an “obstacle” to implementing federal law. Requiring responsible parties to pay compensation for the damage their products have caused and will cause does not conflict with any federal requirements nor presents an obstacle to federal law implementation. As there is no federal law that expressly prevents states from passing laws such as the RENEW Act, the Clean Air Act (CAA) is the federal law most frequently cited that allegedly preempts states from holding fossil fuel companies responsible for the harms their products caused.

The preemptive effect of the CAA is still unsettled. *See, American Electric Power v. Connecticut*, 564 U.S. 410, 429 (2011) (CAA displaces federal common law, leaves open whether it preempts state law governing GHGs). However, Congress specifically preserved state authority to regulate pollution more stringently than federal standards. *See, e.g.*, 42 U.S.C. §7402(a) (state and local governments encouraged to pass uniform laws); §7604(e) (statute does not prohibit state government from seeking “administrative remedy ... in any State or local administrative agency, department or instrumentality.”). Such “saving provisions” show Congress intended the state to augment the CAA and counsel against preemption. *Mayor & City Council of Baltimore v. B.P. P.L.C.*, 31 F.4th 178, 216-17 (4th Cir. 2022).

Here, the RENEW Act does not regulate emissions at all, like the CAA. The Act does not impose any requirements on responsible party operations, does not restrict the sale of their products or otherwise “regulate” in any meaningful way nor does it conflict with or impede the CAA or other federal statutes.

² The U.S. Chamber of Commerce and API recently filed a lawsuit challenging Vermont’s similar legislation raising similar arguments. *Chamber of Commerce v. Moore, et al.*, (D. Vt. Dec. 30, 2024).

SB149 RENEW Act 2025 FAV.docx.pdf

Uploaded by: Zoe Gallagher

Position: FAV



**Testimony to the Senate Education, Energy, and the Environment Committee
SB149 Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025
Position: Favorable**

January 23, 2025

The Honorable Chair Feldman

Senate Education, Energy, and the Environment Committee

2 West Miller Senate Office Building

Annapolis, Maryland 21401

cc: Members, Senate Education, Energy, and the Environment Committee

Honorable Chair Feldman and members of the committee:

Economic Action Maryland Fund (formerly the Maryland Consumer Rights Coalition) is a statewide coalition of individuals and organizations that advances economic rights, equity and housing justice for Maryland families through research, education, direct service, and advocacy. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland. I am writing in strong support of SB149, the RENEW Act of 2025, which would hold the businesses that extract fossil fuels, and achieve enormous profits doing so, accountable for the costs of climate disasters.

It is an unavoidable truth that climate change is exacerbating natural disasters and their impact. From California wildfires to Asheville under water, it is clear that nowhere is safe from the devastating impacts of climate disaster. The time to prepare for such kinds of disasters is now. We need to hold fossil fuel companies responsible for their impact on the environment and ensure that taxpayers are not fully on the line for covering the cost of repair when we inevitably face a climate disaster.

In respect to concerns related to consumer pass through, holding the largest, most polluting fossil fuel companies accountable for these costs through a one-time fee proportional to their historical emissions will not have a consumer impact.

These costs cannot be passed on to consumers for several reasons:

- The price of gas is not connected to oil prices. Oil prices are set by a global market.

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- This assessment will be a one-time fixed cost that would not raise the price of production. Prices of goods and services are only increased when the ongoing price of production is increased.
- This assessment will only apply to some companies- the largest, most polluting companies. This small subset of companies would not be able to raise their prices because companies choose their prices based on what competitors are charging- not just their own costs. There will still be fossil fuel companies who are not being held liable by the legislation.
- The total assessments to each company will be nominal compared to their overall revenues. The largest, most polluting fossil fuel companies have revenues of millions, billions, and trillions of dollars per year. The assessment will not only be a small portion of their yearly revenue, but will be due over a 10 year period.

The Institute for Policy Integrity’s 2022 report, “Enacting the ‘Polluter Pays’ Principle, explains these key points in great detail. The report can be found at this [link](#). Although the report analyzes the principle from a New York context, the economic principles still apply to other states as long as their legislation is significantly similar to New York’s Climate Superfund bill.

For these reasons, we urge your favorable report on SB149

Best,

Zoe Gallager,
Policy Associate

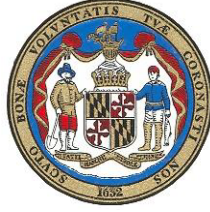
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SB 149 - STO Testimony.pdf

Uploaded by: Dereck Davis

Position: FWA



MARYLAND STATE TREASURER
Dereck E. Davis

Testimony of the Maryland State Treasurer’s Office

**Senate Bill 149 - Responding to Emergency Needs From Extreme Weather
(RENEW) Act of 2025**

Position: Favorable with Amendments

Senate Education, Energy and the Environment Committee

February 13, 2025

Senate Bill 149 bolsters the General Assembly’s ongoing efforts to disincentivize business practices that negatively impact the State’s climate health. The proposed Climate Change Adaptation and Mitigation Payment Program strives to apportion liability for greenhouse gases that fossil fuel companies released into the atmosphere during an important period in Maryland’s history. As a fiscal leader, Treasurer Davis understands that bold action is needed to address and mitigate these costs.

The State Treasurer’s Office (STO), however, is not the agency best suited to assess the cost of greenhouse gas emissions. For the reasons stated below, STO requests an amendment to transition the study to the Maryland Department of the Environment (MDE).

Fiscal Expertise Does Not Extend to Study Parameters

Under Environment Article, § 2–1704 of the bill, the State Treasurer, in consultation with the Comptroller, MDE, and other entities that the State Treasurer identifies, must develop and issue a report on the total assessed cost of covered greenhouse gas emissions. The report is required to include summaries of various costs that have been incurred and are projected to be incurred during the covered period. This cost assessment will inform the cost recovery demand amount for various responsible parties.

Treasurer Davis recognizes the importance and complexity of this type of cost assessment. STO manages various banking, college savings, debt management, and insurance functions for the State, while the State Treasurer serves on 20 related State boards and commissions. Oversight of the State's finances, however, does not align with or extend to the parameters of the study, which call STO and the other participants to evaluate effects of greenhouse gas emissions on public health, natural resources, biodiversity, aquaculture, economic development, flood preparedness and safety, housing, and any other effect determined to be relevant.

Amendment to Transition Study

After careful consideration, STO respectfully requests an amendment to require MDE to coordinate the study. Transferring responsibility in this manner will ensure that the agency most familiar with environmental challenges and costs will remain at the helm. The amendment further promotes continuity across the Program, which the Department would fully administer and implement.

Thank you in advance for your consideration. Please contact Laura Atas, Deputy Treasurer for Public Policy (latas@treasurer.state.md.us), with any questions.

PROPOSED AMENDMENT

BY: Chair, Senate Education, Energy, and the Environment Committee
(To be offered in the Senate Education, Energy, and the Environment Committee)

AMENDMENT TO SENATE BILL 149 (First Reading File Bill)

On page 7, in line 32, strike "STATE TREASURER" and substitute "**DEPARTMENT**".

On page 11, strike beginning with "THE" in line 4 down through "DEPARTMENT," in line 5 and substitute "**THE DEPARTMENT**"; in line 6, strike "STATE TREASURER," and substitute "**DEPARTMENT,**"; and in line 19, strike "STATE TREASURER," and substitute "**DEPARTMENT,**".

2025-02-13 SB 149 - Support with Amendments.pdf

Uploaded by: Tiffany Clark

Position: FWA



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Chief Deputy Attorney General

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Chief Operating Officer

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

ANTHONY G. BROWN
Attorney General

February 13, 2025

TO: The Honorable Brian Feldman
Chair, Education, Energy, and the Environment Committee

The Honorable Pam Beidle
Chair, Finance Committee

FROM: Tiffany Clark
Chief, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 149 – Responding to Emergency Needs From Extreme Weather
(RENEW) Act of 2025– **Support with Amendments**

The Office of the Attorney General urges the Senate Education, Energy, and the Environment and Finance Committees to report favorably on **Senate Bill 149– Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025** with amendments. **Senate Bill 149** establishes the Climate Change Adaptation and Mitigation Payment Program whose primary purpose is to secure compensatory payments from fossil fuel businesses based on a standard of strict liability to provide a source of revenue for State efforts to (1) adapt to and mitigate the effects of climate change and (2) address the health impacts of climate change on vulnerable populations.

Senate Bill 149 establishes a system whereby each fossil fuel company emitting more than 1 billion metric tons of greenhouse gases (GHG) will be required to pay a proportionate share of the total assessed cost of greenhouse gas emissions to the State in a proportionate ratio with the entity's GHG emissions that are part of the total amount of GHGs emitted from 1994 to 2023. Monies paid under the bill will go to a dedicated fund used for mitigation and adaptation projects, with a significant portion to be directed toward communities disproportionately affected by climate change.

Senate Bill 149 aligns with the Attorney General's interest in holding fossil fuel companies accountable for climate change impacts, however, the bill does pose some minor concerns. First,

Senate Bill 149 should be applicable only to an entity that actually sells its product in the State, mines raw materials in the State, or its product is consumed in the State, even if all their emissions don't occur in Maryland to ensure there is sufficient nexus to the State to allow the Maryland Department of the Environment to regulate emitters of GHGs. To the extent this minor issue is addressed with amendments, **Senate Bill 149** would provide much needed funds to address climate change problems caused by polluters who have thus far avoided accountability and paying their fair share.

For the foregoing reasons, the Office of the Attorney General urges a **favorable with amendments** report on **Senate Bill 149**.

cc: Education, Energy, and the Environment Committee Members
Finance Committee Members

FINAL_API_md_sb149_feb2025 (002).pdf

Uploaded by: Bernie Marczyk

Position: UNF



February 13, 2025

Maryland Senate Education, Energy and the Environment Committee
2 West Miller Senate Building
Annapolis, Maryland 21401

IN RE: OPPOSITION to SB 149 “RENEW Act”

Dear Chair Feldman, Vice Chair Kagan, and Members of the Committee:

Thank you for this opportunity to provide comments related to the above-referenced legislation. The American Petroleum Institute (API)¹ **opposes SB 149**. While API appreciates the goal of funding environmental programs, this legislation is not the way to effectuate this objective. API believes it is bad public policy and may be unconstitutional. API is extremely concerned that the bill retroactively imposes costs and liability on prior activities that were legal, violates equal protection and due process rights by holding companies responsible for the actions of society at large, and is preempted by federal law. In fact, API and the U.S. Chamber of Commerce recently filed a complaint in federal court in Vermont challenging the legality of similar legislation passed in Vermont last year.² API strongly encourages Maryland lawmakers to exercise prudence and refrain from passing SB 149 during pending litigation on an issue rife with uncertainty and legal questions. In a time of budgetary challenges, API respectfully suggests that the state does not commit resources into a bill that is effectively already being litigated in another state.

Additionally, for the reasons articulated below, API respectfully requests that the bill be defeated.

Retroactive Law Making

Generally speaking, legislation should apply prospectively to ensure notice to the regulated community and protect due process rights and interests. The bill imposes strict liability on actions that occurred almost a quarter century ago. While retroactive *ex post facto* laws may be justifiable under certain circumstances, there is reason to believe that a court would view this legislation as unconstitutional given the potentially harsh and oppressive nature of the bill.³ Stated another way, there is a persuasive argument that the bill’s extreme retroactivity (reaching back to 1994) and yet to be determined amount of potential liability could make the law “harsh and oppressive” considering that the targeted companies’ actions were lawful during the relevant period and the emissions were actually produced by others farther down the supply chain.

Law May Be Contrary to Excessive Fines and Takings Clauses

The U.S. Constitution includes both an “Excessive Fines” Clause, which prohibits disproportionate fines like those proposed in the bill, and a “Takings” Clause, which prevents the government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole. The legislation at issue may

¹ The American Petroleum Institute represents all segments of America’s natural gas and oil industry, which supports more than 11 million U.S. jobs. Our nearly 600 members produce, process, and distribute the majority of the nation’s energy. API members participate in API Energy Excellence, through which they commit to a systematic approach to safeguard our employees, environment and the communities in which they operate. Formed in 1919 as a standards-setting organization, API has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

² A copy of this complaint is available upon request. Please email gaiamom@api.org.

³ *McKesson Corp. v. Div. of Alcoholic Beverages & Tobacco*, 496 U.S. 18, 41 n.23 (1990) (internal quotation marks omitted); see, e.g., *E. Enters. v. Apfel*, 524 U.S. 498, 549-550 (Kennedy, J., concurring in the judgment) (opining that a law that “create[ed] liability for events which occurred 35 years ago” violated due process); *James Square Assocs. LP v. Mullen*, 21 N.Y.3d 233, 249 (N.Y. 2013) (holding that a tax law with a 16-month retroactivity period was unconstitutional because the sole state purpose offered—“raising money for the state budget”—was “insufficient to warrant [such] retroactivity”).



effectively result in a taking, as it will impose a considerable financial burden for conduct that legally occurred decades earlier in a way that singles out the refining industry for others' use of fossil fuels. Singling out energy production for potentially exorbitant and disproportionate penalties while ignoring the economy-sustaining use of that energy is misguided.

Arbitrary Penalties and Estimated Fines Create Due Process and Fairness Issues

The bill incorrectly suggests that emissions by companies over an extended number of years can be determined with great accuracy. That is simply not true. At best the state can only estimate emissions; and these estimates are imprecise and not accurate enough to base a prorated share of what could be billions upon billions of dollars in penalties.

State Played a Role in Products Being Demanded and Delivered

It is patently unfair to retroactively punish companies with punitive fees for producing fuels that are legal and were used to heat and cool our homes and get us to work for the last thirty years. In many cases it is the federal, state and local governments that are demanding and purchasing these fuels. Ironically, the legislature is imposing a fee on the very goods the state has encouraged production and use of, as the state has approved the siting and operation of: 20 petroleum terminals;⁴ two liquefied natural gas facilities with a total storage capacity of more than 194 million gallons; 19 natural gas-, 15 oil- and 6 coal-fired power plants; over 16,000 miles of natural gas pipeline;⁵ over 1,800 retail gasoline stations;⁶ and state and local governments paving and repairing over 75,000 lane miles of public roads⁷ using tens of thousands of tons of asphalt made from processed crude oil.⁸ To put things into perspective, Marylanders consumed some 2.819 billion gallons of petroleum products, 6.3 trillion cubic feet of natural gas, and 288 million tons of coal over the years between 1994 and 2022.⁹

This Bill Runs Contrary to Prior Positions Taken By Other Legislatures

The RENEW Act contradicts and runs afoul to previous laws and policies supported by the General Assembly. Maryland's legislature is being asked to support the RENEW Act despite previously declaring by statute "that the production and development of oil and gas resources is important to the economic well-being of the State and the nation,"¹⁰ while requiring the state mitigate "the impact of any severe shortage of fuel resources, including middle distillate oil, motor gasoline, residual fuel oil, and propane gas, on various classes of consumers."¹¹ In fact, gas and oil production, storage, and delivery has been designated critical infrastructure.¹² Furthermore, Maryland's Energy Administration has found that "[a]n uninterrupted supply of these fuels is crucial to Maryland's economy and public safety."¹³

No Nexus Between Fine and Actual Responsibility

The bill imposes liability without regard to the extent of a particular business's actual responsibility. Given the potential magnitude of the fines at play, API believes that the state must offer more than an asserted causal connection between a company's greenhouse gas emissions and negative impacts or injuries to the environment or public health and welfare. Liability should not attach simply because a company extracted or refined fossil fuels that were placed into

⁴ See www.energy.gov/sites/prod/files/2015/05/f22/MD-Energy%20Sector%20Risk%20Profile.pdf.

⁵ [Maryland Energy Sector Risk Profile.pdf](#)

⁶ *Maryland Liquid Fuels Plan* at 8.

⁷ See U.S. Department of Transportation Federal Highway Administration. Highway Statistic Series: State Statistical Abstracts 2022, [Workbook: State Statistical Abstracts](#); A lane mile is one lane of road for one mile. So a two-lane road has two lane miles per mile, and a four lane highway has four lane miles per mile. Using lane miles is a better way to measure the amount of pavement that is on a road, [08pcr.pdf \(ny.gov\)](#).

⁸ [What's in Your Asphalt? | FHWA \(dot.gov\)](#).

⁹ [U.S. Energy Information Administration - EIA - Independent Statistics and Analysis](#).

¹⁰ Md. Code Ann., Env't § 14-101 (West).

¹¹ Md. Code Ann., State Government § 9-2005 (West).

¹² Md. Code Ann., Pub. Util. § 1-101 (West) and <https://cdp.dhs.gov/shared/se/courses/default/AWR-358%20dL%20040921/groups/196.html>.

¹³ See *Maryland Liquid Fuels Plan*, Maryland Energy Administration, 21 (October 2022).



commerce and used by a third party.

Improper Use of Strict Liability Standard

The goal of the bill is to effectively impose strict liability for purported present and future damages caused by alleged past emissions from extracted or refined fuels no matter where in the world those emissions were released, or who released them. It is patently unfair to charge a group of large companies that did not combust fossil fuels but simply extracted or refined them in order to meet the needs and demands of the people. Furthermore, the bill is arguably discriminatory because it singles out certain companies. With respect to impact attribution from source emissions, it seems obvious that those who drafted this legislation are aware of the difficulties of establishing a conclusive link between anthropogenic climate change and alleged injuries to Maryland. The legislation also neglects to even consider that companies responded with a supply of products to meet the demand for them in the marketplace. Through their use of the strict liability standard, proponents of this legislation concluded that only one segment of the economy should pay the state for excessive costs.

Disproportionate Penalties

The bill potentially places an unfair burden on domestic companies. The bill envisions the liability will be proportionately divided by so-called “responsible parties.” As written, “responsible party” excludes “any person that lacks sufficient connection with the state to satisfy the nexus requirement of the United States Constitution.” There will be situations where certain companies, including foreign companies, may suggest they have an insufficient connection with Maryland, which would mean that domestic companies may shoulder even greater financial responsibility.

Preemption

The payments required by the bill may be preempted by federal law. Greenhouse gas emissions are global in nature and subject to numerous federal statutory regimes, including the Clean Air Act. They are also a matter of federal and international law, not state law. The U.S. Court of Appeals for the Second Circuit recently noted this fact in *City of New York v. Chevron Corp.*,¹⁴ where the court rejected state-law nuisance claims based on global emissions because “a federal rule of decision is necessary to protect uniquely federal interests.” As this bill seeks compensation for alleged harms to the environment based on global emissions, it is preempted by federal law.

Conclusion

For all the reasons articulated above, API strongly opposes this legislation and respectfully recommends the bill be voted unfavorably out of committee. Thank you for your time, effort and consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael S. Giaimo', written in a cursive style.

Michael S. Giaimo
Northeast Region Director
Phone: 603.777.0467
Email: giaimom@api.org.

¹⁴ See 993 F.3d 81, 90 (2d Cir. 2021).

SB 149_MDCC_Responding to Emergency Needs From Ext

Uploaded by: Hannah Allen

Position: UNF



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 149- Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

Senate Education, Energy, and the Environment Committee

Thursday, February 13, 2025

Dear Chairman Feldman and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 7,000 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

SB 149 establishes the Climate Change Adaptation and Mitigation Program (the Program) in the Department of the Environment, which would serve to secure payments from businesses that derive revenue from fossil fuels or petroleum products. The Program would be used to fund climate change mitigation infrastructure projects, address health impacts of climate change, and impose and collect cost recovery payments on responsible parties. The bill also outlines the total liability will be proportionately divided by “responsible parties.”

The Maryland Chamber has serious concerns over the strict liability, retroactive application, and constitutional issues outlined in this legislation, among many other factors. SB 149 retroactively imposes costs and liability to businesses engaged in the trade or business of extracting fossil fuel or refining crude oil beginning March 21, 1994, violating due process rights and equal protection under the U.S. Constitution. Courts may view the extreme retroactivity as “harsh and oppressive” given that the targeted companies’ actions were lawful. Reaching back over 28 years is extremely harsh and excessive, along with imposing liability on prior activities that were legal.

Additionally, businesses should not be held liable because fossil fuels they extracted or refined were placed into the marketplace and used by a third party. The Chamber urges the committee to consider removing the strict liability and apply this legislation only prospectively to ensure the affected business community has proper notice.

Moreover, the bill potentially violates the “Excessive Fines” Clause and the “Takings” Clause of the U.S. Constitution, which prohibit disproportionate financial burdens on individual entities for costs that should be shared by society as a whole. Signaling out energy producers for penalties while ignoring the economy-sustaining use of that energy is misguided.

Further, the Chamber is concerned that domestic companies will take on greater costs as companies not completely connected to the state, like foreign entities, may argue that they have insufficient connections to Maryland and do not satisfy the nexus requirement of the U.S. Constitution, as outlined in the legislation.

This legislation concludes that one segment of the economy should bear large and excessive costs. Singling out the refining industry, placing a sizeable financial burden on them, and even specific companies for other's use of fossil fuels is inappropriate and tremendously unfair. The bill also fails to recognize that many state and local governments encouraged and approved the production, delivery, and use of these fuels, making it inequitable to retroactively penalize producers for meeting societal needs.

Finally, the payments required by this bill may be preempted by federal law, as greenhouse gas emissions are subject to numerous federal statutory regimes, including the Clean Air Act. These emissions are global in nature, and attempting to regulate them at the state level raises significant federal preemption concerns.

The Maryland Chamber of Commerce urges the committee to not consider passing legislation that retroactively imposes costs and liability during a period when the target companies' actions were lawful. For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report on SB 149**.



SB149 testimony.pdf

Uploaded by: Kirk McCauley

Position: UNF



WMDA/CAR Service Station
and Automotive Repair Association

Chair: Brian J Feldman, Vice Chair Cheryl C. Kagan and members of Education, Energy, and Environmental Committee

RE: SB149 - Responding to Emergency Needs to Extreme Weather Position:

Position: Unfavorable

My name is Kirk McCauley, my employer is WMDA/CAR, we represent service stations convenience stores and repair facilities across the state as a non- profit trade group.

SB149 has an estimate tag of \$9 billion(2023 Fiscal Note)) from energy providers!
WMDA/CAR represents retailers and SB149 will have no direct effect.

The other side of the story is every single penny you eventually receive after litigation will come down to retail level and passed on to consumers. Electric, natural gas, heating oil and motor fuel along with a million other products made from petroleum. A bill of this nature only adds to inflation and cost to live in Maryland. Products in boarding states attract our customers now because of high taxes, this would enhance that attraction.

Please give SB149 an unfavorable report

Any questions can be addressed to Kirk McCauley, 301-775-0221 or
kmccauley@wmda.net

Any questions can be addressed to Kirk McCauley, 301-775-0221 or kmccauley@wmda.net

RENEW MCIES LOO.pdf

Uploaded by: Sarah Peters

Position: UNF



Bill: SB 149 / HB 128- Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

Position: OPPOSE

Dear Chair, Vice-Chair, and Members of the Committee:

The Maryland Coalition for Inclusive Energy Solutions (MCIES) a coalition of corporations, associations, and labor organizations advocating for the inclusivity of all energy types, including natural gas, renewable natural gas, hydrogen, propane, and nuclear power, write to express our opposition to Senate Bill 149 and House Bill 128.

Natural gas is critical for Marylanders who use it to heat their homes and cook their food. It is also essential to Maryland's manufacturing, biotechnology, education, and healthcare sectors. Imposing additional financial burdens on this sector may hinder economic growth and deter industries to the State.

Natural gas plays a vital role in ensuring the reliability and resilience of Maryland's energy grid, especially during extreme weather events. PJM, the organization responsible for managing the power grid in 13 states and Washington, D.C., cautions that electricity demand will outpace supply over the next decade¹. Policy-driven shifts to electrification, the retirement of existing energy sources, and the slow pace of bringing renewable projects online underscore the need for a balanced approach to decarbonizing our energy systems.

Maryland's natural gas infrastructure is advancing low-carbon fuels like Renewable Natural Gas (RNG) and hydrogen into the state's energy portfolio. Advancements in the production and delivery of biogas have proven effective in reducing CO₂ and methane emissions from hard-to-decarbonize sectors. Electrification as a sole decarbonization strategy is unrealistic and ill-advised.

In fact, the MD Commission on Climate Change recommended² that the Maryland General Assembly commission a study of the current and projected costs of anthropogenic climate change in Maryland. This should be done and analyzed before any legislation is passed.

For these reasons, we respectfully request an unfavorable vote. Should you have any questions, please feel free to contact me at SPeters@hbstrategies.us.

Sincerely,
Sarah Peters, Executive Director

¹ <https://insidelines.pjm.com/pjm-publishes-2024-long-term-load-forecast/>

²

https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/MCCC%20Annual%20Report%202024/MCCC_Annual_Report_2024_508.pdf

SB 0149 CompPymts-FossilFuelCos.pdf

Uploaded by: SHARON CARRICK

Position: UNF



Ella Ennis, Legislative Chairman
Maryland Federation of Republican Women
PO Box 6040, Annapolis MD 21401
Email: eee437@comcast.net

The Honorable Brian Feldman, Chairman
and Members of the Committee on Education, Energy and Environment
Senate of Maryland
Annapolis, Maryland

RE: **SB0149** – Responding to Emergency Needs from Extreme Weather (RENEW) Act of 2025 – **OPPOSE**

Dear Chairman Feldman and Committee Members,

The Maryland Federation of Republican Women opposes SB0149 because the compensatory payments required from fossil fuel companies are the equivalent to extortion. The payments are to fund an expanded environmental enforcement arm of State government, pay for pet government programs (such as emission-free school bus fund), and for loans to favored non-profits. The State holds itself harmless for its actions in using those fossil fuel products, licensing the “evil” businesses, and permitting the sale of fossil fuel products it deems liable for greenhouse gas emissions under SB0149.

The stated purpose of SB0149 is to secure compensatory payments from fossil fuel businesses based on a standard of strict liability (without regard to fault) for actions in the covered period of 1994 through 2023. Just as criminal law cannot be applied retroactively, targeting an entire segment of our economy for blame and assessing monetary damages is unacceptable and quite possibly unconstitutional. This is especially egregious when the negative impacts of fossil fuels on greenhouse gases were not known during much of the 30-year covered period.

The sole purpose of this legislation is to provide a revenue source for the State’s efforts to (1) adapt to and mitigate the effects of climate change, including climate change adaptive or mitigation infrastructure projects within the State, and (2) to address the health impacts of climate change on vulnerable populations.

“Entity” is defined as any individual, trustee, agent, partnership, association, corporation, company, municipal corporation, political subdivision, or other person, including a foreign nation, that holds or held an ownership interest in a fossil fuel business during the covered period. It appears that “entity” could include individuals or retirement funds that own shares of stock in a fossil fuel business charged under this legislation. If so, it could adversely affect many Marylanders’ financial stability.

This is not the right approach to funding environmental or other government programs. Please give **HB0149** an **UNFAVORABLE** report.

Sincerely,
Ella Ennis
Legislative Chairman
Maryland Federation of Republican Women

MDE SB149 INFO.pdf

Uploaded by: Jeremy D. Baker

Position: INFO



**The Maryland Department of the Environment
Secretary Serena McIlwain**

***Senate Bill 149
Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025***

Position: Informational
Committee: Education, Energy, and the Environment
Date: February 13, 2025
From: Jeremy D. Baker, Director of Government Relations

The Maryland Department of the Environment (MDE) is providing **INFORMATIONAL** testimony on SB 149.

Bill Summary

SB 149 would establish the Climate Change Adaptation and Mitigation Payment Program (Program) in Maryland, which mandates fossil fuel businesses to make payments to fund the state's efforts to address climate change impacts. Under the bill, MDE would be required to ensure that at least 40% of the qualified expenditures from the Program go to climate change adaptive or mitigation infrastructure projects that directly benefit communities disproportionately affected by climate change.

SB 149 sets out a ratio for cost recovery demands against and applicable shares of greenhouse gas emissions attributable to each responsible party, and allows for adjustments if certain criteria are met. Additionally, the bill directs MDE to use a portion of money from the Mitigation Fund for making grants to local jurisdictions for climate change adaptation and mitigation efforts.

Position Rationale

Senate Bill 149 goes further than the Maryland Commission on Climate Change's (MCCC) related recommendation published in its 2024 Annual Report. The MCCC debated a recommendation implementing the RENEW Act as a whole, but ultimately declined to recommend implementing the RENEW Act and transformed it into a study in this final recommendation:

The Commission believes that Maryland taxpayers should not have to pay the full cost of constantly escalating climate change impacts in the state from sea-level rise, severe storms, and health impacts. To protect taxpayers, the Maryland Commission on Climate Change recommends that the Maryland General Assembly commission a study of the current and projected costs of anthropogenic climate change to the State of Maryland for the purpose of joining other states in assessing a fee on major carbon polluters, one that cannot be transferred to consumers, to compensate the State of Maryland.

Accordingly, the Department appreciates the opportunity to pursue a legislative effort that would align with the final recommendation, initiate a study to realize the costs of climate change to the State, and explore options for assessing a fee on major carbon polluters. Unlike the recommendation, the bill as drafted does not include provisions ensuring that major carbon polluters cannot transfer the fee or cost to consumers. Finally, SB 149 would require MDE to create new regulations, procedures, and a new program that is estimated to require at least 20 staff to implement and manage.

The Maryland Department of the Environment respectfully requests the Committee consider this information during its deliberation. MDE is also available to provide additional information to the Chair and the Committee on SB 149 as needed.

Contact: Jeremy D. Baker, Director of Government Relations
Cell: 240-548-3321, Email: jeremy.baker@maryland.gov

SB0149 (HB0128) - LOI - Responding to Emergency Ne

Uploaded by: Landon Fahrig

Position: INFO



Maryland

Energy Administration

TO: Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee

FROM: MEA

SUBJECT: SB149 - Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

DATE: February 13, 2025

MEA Position: LETTER OF INFORMATION

This bill would permit the state to secure payments from businesses that extract or refine fossil fuels to provide a source of revenue for the purpose of climate adaptation or mitigation efforts and to address the health impacts of climate change on vulnerable populations.

This issue was recently addressed by the Maryland Commission on Climate Change (“MCCC” or “Commission”). During its 2015 session, the Maryland General Assembly codified the MCCC, officially charging the Commission with advising the Governor and General Assembly "on ways to mitigate the causes of, prepare for, and adapt to the consequences of climate change." The MCCC is chaired by the Maryland Department of the Environment Secretary and consists of members representing various state agencies, the general assembly, local government, business, environmental organizations, organized labor, philanthropic interests, and the State University system.

The Commission ultimately determined that Maryland taxpayers should not have to pay the full cost of escalating climate change impacts in the state, including those from sea-level rise, severe storms, and health impacts. To protect taxpayers, the Commission recommended that the Maryland General Assembly create a study of the current and projected costs of climate change to the State of Maryland for the purpose of joining other states in assessing a fee on certain major carbon polluters that cannot be transferred to consumers to compensate the State of Maryland.

MEA urges the committee to consider this information before issuing its report.

Our sincere thanks for your consideration of this testimony. For questions or additional information, please contact Landon Fahrig, Legislative Liaison, directly (landon.fahrig@maryland.gov, 410.931.1537).