



Testimony of Ross Connolly
Northeast Regional Director, Americans for Prosperity
Committee on Environment and Natural Resources

RE: Testimony on behalf of Americans for Prosperity Before the Committee on Environment and Natural Resources Regarding L.D.1808 (H.P. 1209) – An Act to Enact the Maine Climate Superfund Act and L.D. 1870 (S.P. 740) – An Act to Establish a Climate Superfund Cost Recovery Program

Dear Senator Denise Tepler, Co-Chair; Representative Victoria Doudera, Co-Chair; and Members of the Committee:

My name is Ross Connolly, and on behalf of Americans for Prosperity Maine, I thank you for the opportunity to provide testimony on L.D. 1808 (H.P. 1209), “An Act to Enact the Maine Climate Superfund Act,” and L.D. 1870 (S.P. 740), “An Act to Establish a Climate Superfund Cost Recovery Program to Impose Penalties on Climate Polluters.” Americans for Prosperity (AFP) opposes both pieces of legislation due to their flawed approaches, potential economic harm, and questionable legal foundations. L.D. 1808 (H.P. 1209) and L.D. 1870 (S.P. 740) impose retroactive penalties, undermine due process, and risk stifling economic growth without achieving meaningful climate outcomes. We respectfully urge the Committee to recommend that both bills ought not to pass (ONTP).

Retroactive Liability Undermines Fairness and Due Process - L.D. 1870 (S.P. 740) imposes strict liability on “responsible parties” for greenhouse gas emissions from January 1, 1995, to December 31, 2024, targeting entities engaged in fossil fuel extraction or crude oil refining. Retroactively penalizing legal activities from over two decades ago violates fundamental principles of fairness and due process. These companies operated lawfully, meeting the energy demands of Maine’s residents, businesses, and government. Imposing liability for past actions based on imprecise emissions estimates risks deterring future investment in the state and creating a chilling effect on businesses.

Economic Burdens on Maine’s Energy Sector and Consumers - Maine’s economy relies heavily on energy, with petroleum products powering transportation and heating for nearly half of Maine households—the highest share in any state. From 2000 to 2022, Maine residents consumed over 37 billion gallons of petroleum products, 1.5 trillion cubic feet of natural gas, and 3.66 million tons of coal. The state has supported this energy infrastructure, approving 13 petroleum storage facilities, 1,800 miles of natural gas pipelines, and 700 retail gasoline stations. By retroactively targeting energy producers, both L.D. 1808 (H.P. 1209) and L.D. 1870 (S.P. 740) risk increasing costs that will be passed on to consumers, raising prices for heating, transportation, and goods at a time when affordability is a pressing concern.

Legal and Constitutional Concerns - Both bills raise significant legal questions. The retroactive application of strict liability may violate due process and equal protection rights by singling out specific industries for actions that were legal and socially beneficial at the time. The reliance on estimated emissions data, calculated using the U.S. Environmental Protection Agency's factors, introduces arbitrary penalties that lack precision, potentially leading to disproportionate fines. Additionally, both bills may conflict with federal law, as greenhouse gas emissions are regulated under the Clean Air Act and international frameworks, preempting state-level penalties based on global emissions. Similar legislation in Vermont and New York faces federal court challenges, and Maine should avoid committing resources to legally uncertain programs.

Disproportionate Impact on Domestic Companies - The definition of a "responsible party" in both bills excludes entities lacking sufficient connection to Maine under the U.S. Constitution's nexus requirement. This provision may disproportionately burden domestic companies, as foreign entities could claim insufficient ties to the state, leaving U.S.-based firms to bear a larger share of the financial penalties. This imbalance could weaken Maine's energy sector, reduce competitiveness, and harm local jobs.

Inconsistent with Maine's Energy Policy - L.D. 1808 (H.P. 1209) and L.D. 1870 (S.P. 740) contradict Maine's recognition of energy as critical infrastructure. The state has designated oil and natural gas resources as vital to public health, welfare, and safety, supporting the Northeast Home Heating Oil Reserve and the federal Northeast Gasoline Supply Reserve. Maine's approval of energy facilities reflects its reliance on these resources. Retroactively penalizing the industries that met these needs undermines the state's own policies and sends a conflicting message to businesses.

A Misguided Approach to Climate Adaptation - While both bills aim to fund climate adaptation projects—such as flood protections, infrastructure upgrades, and extreme weather preparedness—these goals can be achieved through more equitable and forward-looking policies. The punitive approach of L.D. 1808 (H.P. 1209) and L.D. 1870 (S.P. 740) fails to account for the shared responsibility of emissions, involving individuals, businesses, and governments alike. A collaborative, market-based strategy that encourages innovation and incentivizes sustainable practices would better serve Maine's environmental and economic interests.

For the reasons outlined above, Americans for Prosperity strongly opposes L.D. 1808 (H.P. 1209) and L.D. 1870 (S.P. 740.) The bills' retroactive penalties, legal vulnerabilities, and economic burdens outweigh their intended benefits. We respectfully request that the Committee recommend that both L.D. 1808 (H.P. 1209) and L.D. 1870 (S.P. 740) ought not to pass (ONTP) and instead pursue policies that balance environmental goals with economic growth and fairness.

Thank you for considering our testimony. We stand ready to work with the Committee to advance solutions that promote prosperity and environmental stewardship for all Mainers.

Sincerely,

Ross Connolly
Northeast Regional State Director
Americans for Prosperity