



Conservation  
Law Foundation

For a thriving New England

CLF Maine 53 Exchange Street, Suite 200  
Portland, ME 04101  
P: 207.210.6439  
www.clf.org

**Testimony before the Committee on Environment and Natural Resources  
in support of L.D. 1870, *An Act to Establish a Climate Superfund Cost Recovery Program to  
Impose Penalties on Climate Polluters***

**May 5, 2025**

Senator Tepler, Representative Doudera, and members of the Committee on Environment and Natural Resources, my name is Sean Mahoney, and I am the Vice President and senior counsel of the Conservation Law Foundation (CLF). I appreciate this opportunity to testify in support of L.D. 1870, *An Act to Establish a Climate Superfund Cost Recovery Program to Impose Penalties on Climate Polluters*.

CLF, founded in 1966, is a public interest advocacy group that works to solve the environmental and energy challenges threatening the people, natural resources and communities in Maine and across New England. In Maine for almost four decades, CLF is a member-supported organization that works to ensure that laws and policies are developed, implemented and enforced that protect and restore our natural resources; are good for Maine's economy and environment; and equitably address the climate crisis.

Climate change is an existential threat to Maine as we know it. It is also expensive - for state and local governments who must manage an increasingly vulnerable public infrastructure; for utility customers who are being asked to cover the ever-increasing costs associated with severe storms; for the working waterfronts all along the Maine coast who suffered catastrophic damage in the winter storms of 2023 and 2024; for Maine's forest and agriculture sectors that must deal with invasive species and pests that were unknown in Maine a century ago; for Maine's commercial fishing industry that is suffering from the increased temperatures in the Gulf of Maine and sees the fate of the shrimp fishery as a very real prospect for the lobster fishery; and for the residents and businesses of Maine who must repair their property at a time when insurance is becoming unaffordable, if even available, in many areas. And up to today, all these costs arising from climate pollution are ultimately borne by Maine citizens and businesses.

L.D. 1870 presents this Committee and this Legislature with the opportunity to shift that burden from the people of Maine to the parties chiefly responsible for those costs. And it does that by enacting into law the simple and age-old principle that if you make a mess, you need to clean it up. In the context of environmental law, it's a concept known as the "polluter pays" and is already enshrined in state and federal law. By way of example, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et. seq. (also known as the Superfund), has imposed strict and retroactive liability to clean up "messes" caused by the generation, storage, transport or disposal of hazardous waste that threaten public health and the environment since 1980. Similarly, Maine's Uncontrolled Hazardous Substances Site Act, 38 M.R.S.A. §§ 1361 et seq. is the state of a "polluter pays" liability statute. The time has

come to extend that concept to the those responsible for the climate pollution that has damaged and will continue to damage public health and the environment and in doing so provide Maine with the resources to respond to that harm. It is time for a Maine Climate Superfund.

As has been well documented, the burning of fossil fuels extracted and refined by some of the largest and most profitable corporations in the world has overheated our planet, leading to drastic consequences here: Maine's climate is getting warmer and wetter.<sup>1</sup> One need look no further than the catastrophic storms that struck Maine at the end of 2023 and then again at the beginning of 2024. The heavy rainfall of those storms, the new direction of the storm itself and increased sea levels and storm surges resulted in devastating impacts all along the coast, causing over \$90 million in damage to public infrastructure, and many millions more to private homes and businesses.<sup>2</sup>

Just last month, the Legislature passed and the Governor signed into law L.D. 1, *An Act to Increase Storm Preparedness for Maine's Communities, Homes and Infrastructure*, recognizing the "urgent need for increased preparedness for improved resiliency from future extreme weather events."<sup>3</sup> This newly enacted law will establish a Home Resiliency Program to provide grants to homeowners for home resiliency projects, and is an important step towards providing Maine communities with the tools and resources to prepare for and respond to the increasing severity of storms that are a direct result of climate change. \$39 million has been allocated for that work but that only covers two years and as you know all too well, won't be enough to cover all the costs incurred just from the two winter storms that generated bi-partisan support for the bill. And of course, that money comes out of the pockets of Maine taxpayers.

L.D. 1870 builds on L.D. 1's recognition of the need to assist Maine residents and businesses in preparing and responding to the damage associated with the severe storm events by providing a steady, long-term funding stream to continue to advance the important goal of creating more climate-resilient communities. And it would do so not on the backs of everyday Mainers, but by adherence to the "polluter pays principle:" In short, L.D. 1870 requires that the state produce a detailed report of the financial impact of fossil-fuel-related climate pollution, then identify the largest emitters responsible for that pollution and demand compensation in proportion to their share of emissions. Responsible parties are identified in the legislation so that only parties responsible for over 1 billion metric tons of greenhouse gas emissions from January 1, 1995, through December 31, 2025, and who have a commercial connection to Maine are "on the hook" for their share of the financial impacts on Maine. The revenue generated as a result would then be placed in a fund to be administered by the State and used to pay for projects associated with preparing for and responding to the damage and risks of climate change, consistent with the State's climate action plan. It also provides that any general fund dollars that are used in the State's efforts to develop and establish the Maine Climate Superfund would be reimbursed.

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<sup>1</sup> Maine Climate Council Scientific and Technical Subcommittee, *Scientific Assessment of Climate Change and its Effects in Maine* (2024 Update), at 27.

<sup>2</sup> Maine Climate Council, *Maine Won't Wait: A Four-Year Plan for Climate Change* (Nov. 2024) at 2,

<sup>3</sup> P.L. 2025, ch. 33.

Maine won't be alone in developing and implementing a Climate Superfund. Vermont and New York adopted similar laws last year and other states, including Maryland, Massachusetts and California, are considering similar legislation. There is also an established body of peer reviewed science and methodology that underlies both the determination of the extent of the damage climate pollution has caused and will continue to cause in Maine and how those costs can be allocated to responsible parties as defined by the legislation. In particular, the testimony of Richard Heede of the Climate Accountability Institute and Dr. Justin Mankin will address those two areas.

Establishing a climate superfund in Maine will not be easy. As we have seen in Vermont and New York, the oil and gas industry will fight this in the same way that the tobacco industry fought the efforts to hold it accountable for the damage its product wreaked on public health and the public fisc. Like the tobacco industry, the oil and gas industry were well aware of the damage that its products would cause and did their very best to hide that information and then to deceive the public, the very basis for the lawsuit that Attorney General Frey is currently pursuing against currently pending against the oil and gas industry. Having reaped trillions in profits from the products that were sold and used in Maine over the last three decades covered by this legislation, they will now fight tooth and nail against being held accountable for the costs associated with the sale and use of their product. While they will make legal and economic arguments for why Maine shouldn't hold them accountable, there are clear and well-established facts and legal precedent undercut each and every one of those arguments.

CLF and many other experts and organizations testifying today will be able to provide you with those facts and precedents as you work on this bill. And as you do so, I would urge you to not lose sight of the fact that at its core, L.D. 1870 is premised on the simple principle that if you make a mess, you need to clean it up. The fossil fuel industry has created a mess here in Maine and it is high time that they are held accountable for cleaning it up. We urge this Committee to vote ought to pass on L.D. 1870.