

AMENDED IN SENATE MARCH 26, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

SENATE BILL

NO. 684

Introduced by Senator Menjivar

(Coauthors: Senators Allen, Gonzalez, Stern, and Wiener)

(Coauthors: Assembly Members Addis, *Connolly*, Garcia, ~~and Kalra~~ *Kalra, Rogers, and Ward*)

February 21, 2025

An act to add Part 4.8 (commencing with Section 71370) to Division 34 of the Public Resources Code, relating to climate change, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 684, as amended, Menjivar. Polluters Pay Climate Superfund Act of 2025.

The California Global Warming Solutions Act of 2006, until January 1, 2031, authorizes the State Air Resources Board to adopt a regulation establishing a system of market-based declining aggregate emissions limits for sources or categories of sources that emit greenhouse gases (market-based compliance mechanism) that meets certain requirements. Existing law establishes the Greenhouse Gas Reduction Fund and requires all moneys, except for fines and penalties, collected by the state board from the auction or sales of allowances as a part of a market-based compliance mechanism to be deposited into the fund and requires the Legislature to appropriate moneys in the fund for the purpose of reducing greenhouse gas emissions in the state, as provided.

Existing law, the California Climate Crisis Act, declares that it is the policy of the state both to achieve net-zero greenhouse gas emissions as soon as possible, but no later than 2045, and achieve and maintain net-negative greenhouse gas emissions thereafter, and to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85% below the 1990 levels.

This bill would enact the Polluters Pay Climate Superfund Act of 2025 and would establish the Polluters Pay Climate Superfund Program to be administered by the California Environmental Protection Agency to require fossil fuel polluters to pay their fair share of the damage caused by greenhouse gases released into the atmosphere during the covered period, which the bill would define as the time period between the 1990 and 2024 calendar years, inclusive, resulting from the extraction, production, refining, sale, or combustion of fossil fuels or petroleum products, to relieve a portion of the burden to address cost borne by current and future California taxpayers. The bill would require the agency, within 90 days of the effective date of the act, to determine and publish a list of responsible parties, which the bill would define as an entity with a majority ownership interest in a business engaged in extracting or refining fossil fuels that, during the covered period, did business in the state or otherwise had sufficient contact with the state, and is determined by the agency to be responsible for more than 1,000,000,000 metric tons of covered fossil fuel emissions, as defined, in aggregate globally, during the covered period.

This bill would require the agency, within one year of the effective date of the act, to conduct and complete a climate cost study to, among other things, quantify the total damage amount, which the bill would define as all

past and future climate harms and damages to the state from January 1, 1990, through December 31, 2045, inclusive. The bill would require the agency to update the climate cost study, not less frequently than every 5 years, through January 1, 2045, as provided. The bill would require the agency, within 60 days of the completion of the climate cost study, to determine and assess, as provided, a cost recovery demand for each responsible party listed, which represents the responsible party's proportionate share of the total damage amount. The bill would require responsible parties to pay their cost recovery demand, as provided. The bill would require the collected cost recovery demands to be deposited in the Polluters Pay Climate ~~Superfund Fund~~, *Superfund*, which the bill would create in the State Treasury. The bill would, upon appropriation by the Legislature, require moneys in the ~~fund~~ *Polluters Pay Climate Superfund* be expended for, among other things, qualifying expenditures, which the bill would define to include expenditures for projects and programs to mitigate, adapt, or respond to the damages and costs caused to the state from climate change. The bill would require the agency to determine the initial implementation costs for the act, as provided, and would require the agency to assess an amount allocated equitably among responsible parties to cover those costs.

This bill would require the Director of Finance, within 45 days of the effective date of the act, to perform an initial assessment of the reasonable and appropriate initial implementation costs that will be incurred by the agency.

This bill would declare that it is to take effect immediately as an urgency statute.

Digest Key

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Polluters Pay Climate Superfund Act of 2025.

SEC. 2. (a) The Legislature finds and declares all of the following:

- (1) Climate change, resulting primarily from the combustion of fossil fuels, is an immediate, grave threat to the people, communities, biodiversity, environment, and economy of the state.
- (2) Severe consequences of climate change, including rising sea levels, increasing temperatures, intensifying droughts, wildfires, flooding, heat waves, loss of biodiversity, and other climate change-driven ecosystem threats and extreme weather events, have already materialized, are costing Californians billions of dollars, and constitute an emergency for the state, which must now take urgent action to prevent further damages, protect California residents and communities, and transition to clean renewable energy.
- (3) *Californians, especially* California's most vulnerable populations, ~~including~~ low-income communities and communities of color, children, and the elderly, are ~~disproportionately~~ harmed by the climate ~~emergency~~. *emergency and climate-related costs, including escalating costs of utilities, housing, health care, and insurance.*
- (4) The state must develop and implement protective measures to counteract the adverse effects of climate change.

(5) Protective measures necessary to mitigate climate change, adapt to the adverse effects of climate change, and expedite the transition away from fossil fuels will require significant new investment.

(6) Peer-reviewed research has determined with great accuracy the share of carbon dioxide and methane released into the atmosphere by the operations and products of specific fossil fuel companies.

(7) The fossil fuel industry should now contribute its fair share to government expenditures to protect the state from climate disaster.

(b) In enacting this act, it is not the intent of the Legislature for either of the following:

(1) For the act to be a determination of fault.

(2) For the act to have any impact on the ability of any person or entity to hold polluters accountable for harms caused.

SEC. 3. Part 4.8 (commencing with Section 71370) is added to Division 34 of the Public Resources Code, to read:

PART 4.8. Polluters Pay Climate Superfund Act of 2025

CHAPTER 1. Definitions

71370. For purposes of this part, the following definitions apply:

(a) “Agency” means the California Environmental Protection Agency.

(b) “Annual payment date” means the date, as determined by the agency, not later than October 1 of each calendar year, by which a responsible party shall pay its cost recovery demand.

(c) “Climate cost study” means a study conducted pursuant to Section 71371.3.

(d) “Cost recovery demand” means a charge assessed against a responsible party for compensatory cost recovery payments, as determined pursuant to Section 71371.4.

(e) “Costs” means direct and indirect costs in current dollars to *the* state, ~~local~~, *local* and tribal ~~governments~~ *governments*, and California residents incurred and projected to be incurred into the future to prepare for, prevent, adapt, or respond to the damages and harms associated with the impacts of covered fossil fuel emissions.

(f) “Covered fossil fuel emissions” means the quantity of greenhouse gases released into the atmosphere during the covered period, expressed in metric tons of carbon dioxide equivalent, ~~resulting from~~ *attributable to* the extraction, production, refining, sale, or ~~combustion~~ *combustion, including by third parties*, of fossil fuels or petroleum products.

(g) “Covered period” means the time period between January 1, 1990, and December 31, 2024, inclusive.

(h) “Fossil fuel” means coal, crude oil, petroleum products, or fuel gases, or their byproducts.

(i) “Fuel gas” includes, but is not limited to, methane, natural gas, liquefied natural gas, and manufactured fuel gas.

(j) “Fund” means the Polluters Pay Superfund ~~Fund~~ established pursuant to Section 71372.

(k) “Greenhouse gas” has the same meaning as set forth in Section 38505 of the Health and Safety Code.

(l) “Notice of cost recovery demand” means a written or electronic communication informing a responsible party of the amount of cost recovery demand due, payable to the fund.

(m) “Petroleum products” means a liquid hydrocarbon at atmospheric temperature and pressure that is the product of the fractionation, distillation, or other refining or processing of crude oil and that is used as, useable as, or may be refined as, a fuel or fuel blendstock, including, but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and renewable fuels containing more than 5 percent petroleum products.

(n) “Program” means the Polluters Pay Climate Superfund Program established pursuant to Section 71371.

(o) (1) “Qualifying expenditures” means expenditures for projects and programs within the state to mitigate, adapt, or respond to the damages and harms from climate change, as well as ongoing operation and maintenance for those projects or programs that satisfy the regulations adopted pursuant to Section 71373.2.

(2) Qualifying expenditures shall include all reasonable costs incurred by the agency and other public agencies for administering and implementing projects or programs financed by the fund. Administrative costs shall not exceed 10 percent for any project or program financed by the fund.

(3) Qualifying expenditures shall ~~include, but are not limited to,~~ *include* expenditures for projects and programs that ~~do mitigate or adapt to climate change and its impact to the state, local and tribal governments, and California residents. Qualifying expenditures include, but are not limited to, investments in~~ any of the following:

~~(A) Mitigate climate change and its impacts to state, local, and tribal governments and California residents, such as through energy efficiency, natural systems climate resilience, accelerating the transition to clean energy sources, building and infrastructure decarbonization, distributed energy generation and storage, or zero-emission transportation and infrastructure, including public transit.~~

~~(B) Adapt to climate change and its impacts to state, local, and tribal governments and California residents, such as through sustainable community infrastructure, green workforce development, sustainable agricultural practices, or financial support programs for workers whose livelihoods are impacted by climate change, or job training and support for workers who provide essential services during climate disaster.~~

~~(C) Address climate-fueled disaster response and climate-resilient recovery.~~

(A) Community disaster preparedness, response, and recovery, that includes any of the following:

(i) Hardening of structures in existing, at-risk, and recovering communities.

(ii) Evacuation planning and design.

(iii) Postdisaster soil and water remediation.

(iv) Emergency housing, health, and medical response.

(v) Sustainable community planning and infrastructure, including community resilience centers, affordable infill housing, and public services funding to support emergency services and disaster response.

(B) Energy efficiency and resiliency, including, climate-resilient schools, electric school buses, vehicle-to-grid bidirectionality, microgrids, community solar, accelerating the transition to clean energy sources, zero-emission infrastructure, including public transit, or building and infrastructure decarbonization.

(C) Green workforce development and job training, and support for first responders and essential workers during climate disasters, financial support programs for workers whose livelihoods are impacted by

climate change.

(D) Regenerative agricultural practices.

(E) Natural system protections, such as preservation or nonextractive restoration of shrublands, forests, grasslands, deserts, or riparian areas, groundwater recharge or storage, or instream flow projects.

(p) “Responsible party” means an entity, including, but not limited to, an individual, trustee, agent, partnership, association, corporation, or other legal organization, including a foreign nation, that satisfies all of the following conditions:

(1) (A) The entity holds or held a majority ownership interest in a business engaged in extracting or refining fossil fuels during the covered period or is a successor in interest to the entity.

(B) For purpose of subparagraph (A), entities in a commonly controlled group, as defined in Section 25105 of the Revenue and Taxation Code, shall be treated as a single entity for purposes of this subdivision and shall be jointly and severally liable for the payment of any cost recovery demand owed by any entity in the commonly controlled group.

(2) During any part of the covered period, the entity did business in the state or otherwise had sufficient contacts with the state to give the state jurisdiction over the entity pursuant to Section 410.10 of the Code of Civil Procedure.

(3) The agency determines that ~~the entity is responsible for~~ more than one billion metric tons of covered fossil fuel emissions, in aggregate globally, *are attributable to the entity* during the covered period.

(q) “Total damage amount” means the costs determined by the agency in its climate cost study of past and future climate damages and harms from January 1, 1990, up to, and including, December 31, 2045, ~~resulting from~~ *attributable to* covered fossil fuel emissions.

CHAPTER 2. Polluters Pay Climate Superfund Program

71371. (a) There is hereby established the Polluters Pay Climate Superfund Program to be administered by the agency.

(b) The purpose of the program is to require fossil fuel polluters to pay their fair share of the damage caused by covered fossil fuel emissions, thereby relieving a portion of the burden to address costs otherwise borne by current and future California taxpayers.

71371.1. (a) A responsible party, as determined by the agency pursuant to Section 71371.2, shall be strictly liable for a cost recovery demand.

(b) Beginning January 1, 2026, each responsible party shall pay to the agency its cost recovery demand established pursuant to Section 71371.4.

71371.2. Within 90 days of the effective date of this part, the agency shall determine and publish on its internet website a list of responsible parties subject to this part. The agency may update the list from time to time, as appropriate.

71371.3. (a) The agency shall conduct or commission a climate cost study and the study shall be completed within one year of the effective date of this part.

(b) The climate cost study shall include, at a minimum, an evaluation of all of the following:

(1) (A) The cost-driving effects of covered fossil fuel emissions on *the* state, ~~local~~, *local* and tribal ~~governments~~ *governments*, and California residents, including effects on public health and safety, biodiversity

and ecosystems, agriculture and food systems, water, wildfire, the built environment, economic development, and any other effects that may be relevant.

(B) The evaluation shall be based on a review of existing best peer-reviewed and publicly available science on climate impacts and costs, including climate attribution science and methodologies, California's Fourth Climate Change Assessment, information available from ~~the California's~~ ongoing Fifth ~~National~~ Climate *Change* Assessment, and any future relevant assessments.

(C) Climate impacts, including, but not limited to, extreme weather events, such as heat waves, droughts, and flooding, sea level rise, air and water temperature shifts, changes in wildfire, such as to area burned, smoke, air quality, and damage to communities, and related economic impacts, such as agricultural and food system costs, health costs, housing insurability, affordability, and access, shall be considered in the evaluation.

(2) A calculation of the costs incurred since January 1, 1990, and projected to be incurred into the future up to, and including, December 31, 2045, within the state for effects identified under paragraph (1).

(3) A list to identify potential harms and impacts incurred since January 1, 1990, and projected to be incurred into the future up to, and including, December 31, 2045, within the state ~~from~~ *attributable to* covered fossil fuel emissions, that are not yet quantifiable using current best available scientific methodologies, for consideration in future updates as science and quantification methods evolve.

(4) A calculation of the total damage amount.

(5) An assessment of potential qualifying expenditures meeting the requirements of Section 71371.6.

(c) The agency shall update the climate cost study using the best publicly available peer-reviewed science, data, and methodology, not less frequently than every five years, through January 1, 2045.

(d) The agency shall, in accordance with Section 9795 of the Government Code, submit to the Legislature the climate cost study and update.

71371.4. (a) Within 60 days of the completion of the climate cost study, the agency shall determine and assess a cost recovery demand upon each responsible party by doing all of the following:

(1) Quantify covered fossil fuel emissions attributable to each responsible party based on publicly reported data on the operations and production of the fossil fuel industry and the best available and most up-to-date Intergovernmental Panel on Climate Change emissions factors for greenhouse gas inventories.

(2) Establish the proportionate share percentage of each responsible party as equal to the ratio of the responsible party's covered fossil fuel emissions to covered fossil fuel emissions globally.

(3) Establish a cost recovery demand for each responsible party in an amount equal to the proportionate share percentage of the responsible party as determined pursuant to paragraph (2) multiplied by the total damage amount determined pursuant to the climate study or its update prepared pursuant to Section 71371.3.

(b) Within 60 days of an update of the climate cost study, the agency shall update and adjust, as necessary, the quantification and determinations made pursuant to subdivision (a).

(c) (1) The notice of cost recovery demand shall inform the responsible party of its obligation to remit the cost recovery demand, or any adjustment to the cost recovery demand, in full, on or before the annual payment date of the calendar year in which the notice is issued or the next calendar year if the provided notice is issued less than 60 days before the annual payment date.

(2) A responsible party may elect to pay its cost recovery demand in 20 installments by providing written notice of its election and submission of at least 10 percent of the cost recovery demand on or before the annual

payment date of the calendar year in which the initial notice is issued or the next calendar year if the notice is issued less than 60 days before the annual payment date. The remaining balance shall be paid in equal installments that are due on or before the annual payment of each calendar year after the initial payment.

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

(A) The responsible party fails to pay any installment by the due date pursuant to this subdivision.

(B) Except as provided in paragraph (4), there is a liquidation or sale of substantially all the assets of the responsible party.

(C) The responsible party ceases to do business.

(4) In the case of a sale of substantially all the assets of a responsible party, the remaining installments shall not become due immediately if the buyer enters into an agreement with the agency under which the buyer assumes liability for the remaining installments due under paragraph (2) in the same manner as if the buyer was the responsible party.

(5) If an update to the climate cost study results in an adjustment to the responsible party's cost recovery demand, the agency shall, within 60 days, issue a revised written notice of cost recovery demand notifying the responsible party of the adjusted payment due.

(6) Payment of the cost recovery demand may be stayed by the agency or a court pending administrative or judicial resolution, as applicable, of a challenge filed under Section 71371.5.

71371.5. (a) The agency shall establish procedures for an entity to challenge its designation as a responsible party under Section 71371.2 or its cost recovery demand established pursuant to Section 71371.4.

(b) The agency may adjust a responsible party's cost recovery demand if the responsible party establishes, to the satisfaction of the agency, both of the following:

(1) A portion of ~~the~~ *its* cost recovery demand amount is attributable to ~~the refining of crude oil~~ *fossil fuel* extracted by another responsible party.

(2) The ~~crude oil~~ *fossil fuel* extracted by the other ~~entity~~ *responsible party* was accounted for when the agency determined the cost recovery demand amount for the other ~~entity or the successor in interest of the other entity~~ *responsible party*.

(c) This section does not limit a real party's right to seek judicial review of a determination made by the agency, except that no civil action shall be maintained under this part unless it is commenced within 30 days after the claim accrued.

71371.6. The agency shall establish funding criteria and guidelines in accordance with the climate cost study for programs and projects that are eligible as qualifying expenditures funded from moneys collected pursuant to this chapter.

71371.7. Until December 31, 2045, every five years after the effective date of this part, the Legislative Analyst's Office shall conduct an independent evaluation of the Polluters Pay Climate Superfund Program to be provided to the Governor, the President pro Tempore of the Senate, and the Speaker of the Assembly. The purpose of this evaluation shall be to determine the effectiveness of the program in achieving its purposes as described in this chapter and to provide recommendations for improving program administration.

CHAPTER 3. Polluters Pay Climate Superfund ~~Fund~~

71372. (a) There is hereby established the Polluters Pay Climate Superfund ~~Fund~~ in the State Treasury. Moneys in the fund shall, upon appropriation by the Legislature, be used to implement the program pursuant to Chapter 2 (commencing with Section 71371), including qualifying expenditures, and to reimburse any outstanding loan made from other funds used to finance the initial costs of the agency's activities in implementing this part. Moneys in the fund shall not be expended for any purposes not specified in this part.

(b) Moneys collected pursuant to Chapter 2 (commencing with Section 71371) or Chapter 4 (commencing with Section 71373) shall be deposited into the fund.

71372.1. Moneys in the fund shall be expended on qualifying expenditures in accordance with the findings of the climate cost study and updates to the study and guidelines and criteria established pursuant to Section 71371.6 so that both of the following occur:

(a) Not less than 40 percent of the moneys are expended for projects and programs that directly benefit disadvantaged communities, as defined by the agency, facing climate impacts.

(b) Programs and projects funded by the fund include the assessment and implementation of strategies to increase employment opportunities and improve job quality.

CHAPTER 4. Miscellaneous Provisions

71373. Within 45 days of the effective date of this part, the Director of Finance shall perform an initial assessment of the reasonable and appropriate initial implementation costs as described in Section 71373.3.

71373.1. In implementing this part, the agency shall conduct regular consultations with the Integrated Climate Adaptation and Resiliency Program, the State Air Resources Board and the Environmental Justice Advisory Committee of that state board, the State Water Resources Control Board, the Natural Resources Agency, the State Energy Resources Conservation and Development Commission, the Office of Emergency Services, the Strategic Growth Council, the State Department of Public Health, the Office of Environmental Health Hazard Assessment, the California Coastal Commission, *the Public Utilities Commission*, the Attorney General, and other appropriate public agencies and nongovernmental entities.

71373.2. (a) Within 180 days of the effective date of this part, the agency shall adopt all regulations, including those establishing requirements for projects and programs eligible for funding from the fund, necessary to carry out this part.

(b) The agency may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this part. Emergency regulations prescribed, adopted, or enforced pursuant to this part shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Sections 11349.1 and 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other law, the emergency regulations adopted by the California Environmental Protection Agency may remain in effect for two years from adoption.

71373.3. (a) Within 120 days of the effective date of this part, the agency shall determine the initial implementation costs, including the costs of the initial climate cost study, the development and adoption of regulations to implement this part, and other appropriate initial program implementation costs.

(b) The agency shall equitably assess a charge on the responsible parties for the full amount of the agency's initial implementation costs determined pursuant to subdivision (a). The agency shall notify responsible parties of the charge.

(c) Within 60 days of the notification, each responsible party shall remit the charge to the agency for deposit into the fund.

(d) A responsible party's payment of the charge may be stayed by the agency or a court pending administrative or judicial resolution, as applicable, of a challenge filed under Section 71371.5.

71373.4. The agency and the Attorney General shall have the authority to enforce the requirements of this part and to assess fees for late payments of cost recovery demands pursuant to Chapter 2 (commencing with Section 71371) or the charge assessed under Section 71373.3. The late fees shall accrue daily, assessed at the rate of 10 percent per annum, on amounts remaining due.

71373.5. The Secretary of State shall have the authority to revoke or suspend the business license of a responsible party that fails to comply with this part.

71373.6. (a) This part does not do either of the following:

- (1) Relieve the liability of an entity for damages resulting from climate change, as provided by law.
- (2) Preempt, displace, or restrict any rights or remedies of a person, the state, units of local government, or tribal government under law relating to a past, present, or future allegation of any of the following:
 - (A) Deception concerning the effects of fossil fuels on climate change.
 - (B) Damage or injury resulting from the role of fossil fuels in contributing to climate change.
 - (C) Failure to avoid damage or injury related to climate change, including claims for nuisance, trespass, battery, design defect, negligence, failure to warn, or deceptive or unfair practices and claims for injunctive, declaratory, monetary, or other relief.

(b) This part does not preempt or supersede any state law or local ordinance, regulation, policy, or program, including, but not limited to, those that do any of the following:

- (1) Limit, set, or enforce standards for emissions of greenhouse gases.
- (2) Monitor, report, or keep records of emissions of greenhouse gases.
- (3) Collect revenue through fees or levy taxes.
- (4) Conduct or support investigations.

71373.7. The remedies provided in this part are in addition to other remedies provided by law. This part does not limit a party's right, including the agency, other governmental bodies, or private individuals, from pursuing civil action or other remedies provided by law, or to capture additional costs not recovered by this part.

71374. The provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To fund and implement measures to address the immediate, ongoing threats to public safety, and the health and welfare of the people, the environment, and the State of California from climate change, it is necessary for this act to take effect immediately.