



**Testimony from Ross Connolly
Northeast Regional Director, Americans for Prosperity
Senate Committee on Finance
May 21, 2026**

RE: Testimony on behalf of Americans for Prosperity Before the House Committee on Environment and Natural Resources Regarding H. 7004 & S. 2024– An Act Relating To State Affairs And Government -- Rhode Island Climate Superfund Act Of 2026 (Creates The Rhode Island Climate Superfund Act Of 2026.)

Honorable Chair DiPalma, Vice Chair Ciccone, Vice Chair Felag, and Members of the Senate Committee on Finance:

On behalf of Americans for Prosperity–Rhode Island, a grassroots advocacy organization that works to expand opportunities for all Americans, I thank you for the opportunity to provide testimony on H. 7004 and S. 2024 “An Act Relating To State Affairs And Government -- Rhode Island Climate Superfund Act Of 2026 (Creates The Rhode Island Climate Superfund Act Of 2026.)” We respectfully submit testimony in opposition to legislation establishing the Rhode Island Climate Superfund Act of 2026.

This letter explains that climate superfund proposals rely on retroactive strict liability, which poses serious risks to the state and could lead to higher costs for Rhode Island families amid significant affordability challenges.

Affordability and Cost Pass-Through Risks: Targeting energy producers retroactively could lead to higher costs that will be passed on to households and businesses. This could raise prices for electricity, heating, transportation, housing, and other goods at a time when affordability is a major concern in the state. Retroactive penalties may also increase compliance costs for energy producers, potentially leading to higher heating bills, fuel prices, and higher costs for goods and services for consumers. At a time when Rhode Island’s families are already facing rising costs, this legislation risks compounding those financial pressures by requiring taxpayers to fund litigation to defend this law if it is challenged in court.

Retroactive Liability Creates Potential Liability: Rhode Island’s climate superfund proposal imposes strict liability for lawful energy production and refining activities dating back three decades. These activities were fully regulated, state-approved, and socially necessary at the time they occurred. Federal courts have repeatedly raised constitutional concerns about retroactive economic penalties that interfere with settled expectations and impose new liabilities decades after the fact (*Eastern Enterprises v. Apfel*, 524 U.S. 498 (1998)).¹

¹ *Eastern Enterprises v. Apfel*, 524 U.S. 498 (1998) <https://supreme.justia.com/cases/federal/us/524/498/>

Vermont’s Climate Superfund Act – the first of its kind in the nation – continues to face legal challenges.² Its constitutionality remains unresolved, delaying effective implementation. A bill was introduced May 20, 2025, to repeal the superfund law.³ New York’s Climate Superfund Act remains under legal challenge in federal court by a coalition of 22 states. This litigation, which this Committee has previously heard about, involves plaintiffs claiming that the law exceeds constitutional bounds and is preempted by federal environmental regulations.⁴ Meanwhile, New Jersey lawmakers were unable to move similar superfund legislation beyond the committee stage, causing the bill to expire at the end of the 2025 session. A new bill was pre-filed in the 2026 session. However, questions remain with respect to the legality of climate superfund legislation as was proposed in New Jersey during the 2025 session.

Misguided Policies: While proposals for climate superfund cost recovery programs are presented as sources of funding for adaptation efforts, tying funding to highly contested retroactive penalties could impede rather than support Rhode Island’s resilience initiatives. Rhode Island might face lengthy legal disputes before obtaining any funds for flood protection, infrastructure upgrades, or emergency preparedness, all while paying to defend its law. The punitive methods of this legislation overlook the shared responsibility for usage among individuals, businesses, and governments, and fail to build on existing federal and state programs that already provide a foundation for adaptation. Introducing new superfund cost recovery programs with strict liability could slow progress. A cooperative, market-driven strategy that encourages innovation and supports sustainable practices would better align with Rhode Island’s environmental and economic objectives.

For these reasons, Americans for Prosperity–Rhode Island respectfully urges the Legislature to reject H. 7004 and S. 2024. The legislation invites likely litigation, threatens affordability for working families, and delays the very adaptation efforts it claims to support.

We stand ready to work with the Committee on solutions that strengthen resilience while protecting Rhode Island’s economy and the financial well-being of its residents.

Sincerely,

Ross Connolly
Northeast Regional Director
Americans for Prosperity

² <https://www.justice.gov/opa/pr/justice-department-files-motion-summary-judgment-challenge-vermonts-climate-superfund-law>

³ <https://legislature.vermont.gov/bill/status/2026/H.518>; <https://legislature.vermont.gov/Documents/2026/Docs/BILLS/H-0518/H-0518%20As%20Introduced.pdf>

⁴ <https://www.nytimes.com/2025/02/06/nyregion/climate-change-superfund-act-lawsuit.html>