



OFFICE OF MANAGEMENT & BUDGET

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May 21, 2026

The Honorable Louis P. DiPalma
Chair
Senate Committee on Finance
Rhode Island State House
Providence, RI 02903

RE: S2024 – An Act Relating to State Affairs and Government – Rhode Island Climate Superfund Act of 2026

Dear Chair DiPalma:

Thank you for providing the Office of Management and Budget (OMB) with the opportunity to submit comments in response to Senate Bill No. 2024. This bill would create the Rhode Island Climate Superfund and would direct the Department of Environmental Management (DEM) to assess and pursue cost recovery demands, and charge a responsible party for climate change response work. The bill would also allow DEM to promulgate emergency regulations as necessary to implement, administer, and enforce its duties within the proposed chapter.

OMB is not commenting on the overall merits of the legislation but rather wishes to raise a technical concern. We respectfully note that under the Administrative Procedures Act (APA), an agency may only promulgate an emergency regulation when there is “an imminent peril to public health, safety, or welfare or loss of federal funding.” An emergency regulation is effective immediately after the agency head and the Governor (or the Governor’s designee) have signed the regulation, without public notice and comment. The emergency regulation is in effect for 120 days (with the option of one 60-day extension). If an agency wishes to make the emergency regulation permanent, it is encouraged to initiate regular rulemaking (which does include public notice and comment) immediately after the emergency rule’s promulgation to avoid any disruption to enforcement.

This bill would establish a statutory process for emergency rulemaking outside the APA’s clearly delineated parameters. If a condition of imminent peril or loss of federal funding exists, then the existing APA framework is sufficient for DEM to promulgate an emergency rule. However, the bill’s implementation timeline (12 months to identify climate change response work eligible for cost recovery and 18 months to determine amounts owed by responsible parties) would be conducive to the regular rulemaking process, which ensures public participation and transparency. In any case, regular rulemaking would still be required to finalize an emergency rule as a permanent regulation.

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We appreciate the opportunity to share our comments on this legislation with the Committee. Should you have any questions or require further information, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Daniels". The signature is fluid and cursive, with the first name "Brian" and last name "Daniels" clearly distinguishable.

Brian Daniels
Director, Office of Management and Budget

cc: The Honorable Members of the Senate Committee on Finance
The Honorable Linda L. Ujifusa
Kristen Silvia, Deputy Chief of Staff and Director of Legislation
Jamie Plume, Committee Clerk