

Will the Feds Take the Lead on a ‘Polluters Pay’ Climate Fund?

Article By:

Bruce White

Following the [lead of several states](#), Democrats in Congress are backing a proposed Polluters Pay Climate Fund to require the largest pollution emitters to contribute to a \$1 trillion federal fund to pay the cost to mitigate and redress the effects of climate change. Companion bills were introduced in the [Senate](#) and [House](#) on Sept. 12.

Like the legislation passed in Vermont and New York, and similar bills percolating in California, Maryland and Massachusetts, the proposed law is modeled after the federal Superfund, with the objective of holding those responsible for creating the climate crisis accountable. According to the [Senate sponsors](#), the law, if passed, would:

- Authorize the U.S. Department of Treasury (in partnership with the Environmental Protection Agency) to impose aggregate fees of \$100 billion annually, collected over 10 years, on the top polluting fossil fuel companies to establish a \$1 trillion Polluters Pay Climate Fund. Companies would be charged in proportion to their past carbon emissions in excess of 1 billion metric tons.
- Create a fund to be used to combat the effects of climate change, including rebuilding and upgrading infrastructure; cleaning up the effects of pollution in frontline communities; and providing climate-related disaster assistance. Forty percent of the fund would be set aside for investments that benefit environmental justice communities in accordance with the administration’s [Justice40 initiative](#).

Additionally, the bills’ sponsors say the proposed law is not intended to preempt climate lawsuits in local or state courts seeking to hold the responsible parties accountable for climate change, or state-level climate superfund type laws that seek to recover damages or other remedies for climate change.

While the potential for the proposed bills’ success will depend on the upcoming elections, it appears that Democrats are looking to build support for the concept early as a rallying point on climate issues. Like the state “Climate Superfund” bills, it is anticipated that the fossil fuel industry will oppose a federal climate fund as, among other things, [an unconstitutional retroactive tax](#) that is being selectively imposed and disproportionate to the harm allegedly caused by each entity.

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