

[Constitutional Arguments and Answers - Do's and Don'ts](https://legal-planet.org/2025/08/20/states-should-not-wait-to-make-polluters-pay/)  
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Argument 1:

**The program will “inevitably be passed along to our state’s businesses,”.**

Response:

Economists have shared their view of the Climate Superfund legislation here is what they say:

The fees would account for only a small portion of polluters’ expenses, relative to their revenue and profits (net income). For example, ExxonMobil, the investor-owned company with the largest historic emissions (per the Carbon Majors database), reported net income (profit) of \$33.68 billion in 2024, \$33.01 billion in 2023, and \$55.74 billion in 2022. The Climate Superfund fee will fall mainly on large companies with substantial revenue.

Right now, the public is paying 100% of the state’s current climate costs and would have been paying the full freight of those costs as they exponentially grow in the future. If opponents are right that costs will be passed on – and they’re not right – the public can’t be worse off. They can’t pay more than 100% of the costs.

<https://www.nypirg.org/capitolperspective/gov-hochul-signs-climate-superfund-saves-taxpayers-75-billion/>

### **Climate Damages Already Hurt Small Businesses:**

Extreme weather, flooding, wildfires, and heat waves impose real and growing costs on small businesses, from supply disruptions to insurance spikes. Climate Superfund funds resilience and recovery that directly benefit local economies.

Example: [Governor Lamont Announces 278 Small Businesses and Nonprofits Received \\$5.9 Million in Emergency State Funding To Support Recovery From August Severe Floods.](#)

The 278 organizations that received grants reported having a total of \$38,253,051 in damages.

**Argument 2:**

**“This bill could affect gasoline prices if the fossil fuel producing companies”**

### **Oil Prices Are Set on Global Markets**

Gasoline price changes in Connecticut vary with the cost of crude oil, which is

determined in a global market.

We know the global price of crude oil is volatile and uncertain; production costs of refined gasoline likewise are unstable and result in changing prices at the pump. However, the Climate Superfund fee is based on the pollution impacts of past production, not current or future activity. It imposes a fixed cost that does not impact the costs of current or future production.

- Gasoline prices are determined by **global supply and demand**, not by state-level or regional policy decisions.
- Individual states, or even multiple states, lack the market power to influence world oil prices through localized fees.

**Historical examples show that retrospective environmental and legal liabilities reduce corporate profits rather than raising consumer prices.**

- **Tobacco Master Settlement Agreement (1998):**  
Tobacco companies paid over \$200 billion for past public health harms. The costs reduced profits and shareholder value; price trends were driven by regulation and demand shifts, not settlement pass-through.
- **BP Deepwater Horizon Spill (2010):**  
BP absorbed more than \$60 billion in fines and cleanup costs. Gasoline prices continued to follow global oil markets, not BP's liabilities.
- **Auto Industry Emissions & Safety Settlements:**  
Volkswagen and other automakers paid tens of billions for emissions cheating and safety defects. Costs were absorbed through lower profits and restructuring, without industry-wide consumer price spikes.
- **Federal Superfund (CERCLA):**  
Polluters have long been held responsible for cleaning up decades-old contamination. Courts treat these costs as sunk liabilities, paid by firms rather than passed on to consumers.

**Argument 3: We should wait for the litigation to be over to pass the bill**

Waiting for litigation is a delay tactic. The damage is already happening, and the costs are already landing on the public. We don't stop governing because a lawsuit was filed. We act to protect people.

**Argument 4: (Virginia) Sen. Stanley Sen. Stuart says we're hypocrites because we heat our homes, drive our cars and benefit from the system that pollutes.**

Using the system we were handed isn't hypocrisy, refusing to fix it is. People heat their homes because they must; corporations polluted because it was profitable. Climate Superfund laws simply say those who caused the harm should help pay to clean it up.