

Proposed Improvements to S.259  
(Redline suggestions attached)

- **Changes to Section 3 Treasurer’s Report p. 15-16**
  - Make clear that in conducting the costs assessment and calculations called for, the Treasurer may consult with others outside of state government who have credible data and/or methodologies that may be useful. As worded, the Treasurer must consult with heads of various executive branch agencies. The Treasurer’s authority to go beyond that group is implied, but should be expressly stated.
  - Expand the scope of the Treasurer's assessment so that it is not limited only to cost-driving effects on State-owned assets/programs but can also include damages sustained by municipalities and private businesses and individuals. Essentially, cover costs incurred “within” the State of Vermont both to the State itself and “its residents.”
  - Specifically call out “housing” as one of the climate change-affected areas the Treasurer’s report should account for.
  - Require that the Treasurer “categorize” the estimated and calculated costs to improve the utility and defensibility of the Treasurer’s assessment. If fossil fuel interests succeed in a legal challenge to inclusion of one or more categories of costs for recovery, those categories could more easily be severed from the total cost assessment. At that point, the cost recovery demands based on the Treasurer’s assessment could be formulated from the pared down universe of recoverable costs.
  - Make clear that the cost calculations include both costs that have been incurred and those that are likely to be incurred as a result of covered greenhouse gas emissions during the covered period. This is consistent with the testimony of Professor Mankin, who indicated that historical emissions generate multiple buckets of costs because past emissions are persistent in the atmosphere: those already incurred, those currently being incurred, and those that will be incurred in the future.
  
- **Bring the “Covered Period” closer to present day by ending it in 2023 p. 4 (and other places where definition is used).** Testimony of Richard Heede indicated that reliable data will soon be available to attribute emissions from fossil fuel extraction and refining up through the end of 2023, a year in which the climate change damages sustained by Vermont were particularly acute. His testimony also indicated that data is already available up through the end of 2022. To maximize the cost-recovery under the bill, the “covered period” should extend as close to the present day as is possible given existing and anticipated data availability.

Testimony to the committee also indicates that there is a factual and legally defensible basis to begin the covered period earlier than 2000. While we would support such a change, we do not have a specific proposal on that issue at this time.

- **Change “Climate change adaptive infrastructure project” p.2 to “Climate change responsive action or project”** The committee discussion has repeatedly surfaced a concern that money disbursed by the Climate Superfund should cover a broad range of costs imposed on Vermont and its residents because of covered emissions in the covered period. In light of those concerns and the breadth the draft’s existing definition, the term “infrastructure project” seems too narrow. For example, “undertaking preventive health care programs and providing medical care to treat illness or injury caused by the effects of climate change” is not really what is generally thought of in connection with “infrastructure.” The Climate Superfund should be intended to be flexible enough to cover both actions and projects with a causal link to climate change effects; we propose a definitional label and modifications to the definition to reflect that intended flexibility.
- **Minority Interest calculation p.8** Edit in the attached intended to clear up a possible misreading of the intent of the provision. As currently written, it could be misinterpreted to mean that the responsible party’s applicable share was only that of their minority interest rather than their own share PLUS the share attributable to their minority interest.
- **Methodology for Attributing Emissions.** We support the recommendation of Sen. Hashim to ensure that ANR has access to appropriate options for making the attribution calculation. We have suggested language that was employed for a similar purpose in the Affordable Heat Act.
- **Add “Savings Clause.” P.10** The language proposed is identical to the language used in S.261—the PFAS strict liability legislation.