

**ENTER THE DRAGON—CHINA AND  
THE LEFT’S LAWFARE AGAINST  
AMERICAN ENERGY DOMINANCE**

---

**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON FEDERAL COURTS,  
OVERSIGHT, AGENCY ACTION,  
AND FEDERAL RIGHTS  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

JUNE 25, 2025

**Serial No. J-119-28**

Printed for the use of the Committee on the Judiciary



*www.judiciary.senate.gov*  
*www.govinfo.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON THE JUDICIARY

CHARLES E. GRASSLEY, Iowa, *Chairman*

|                                   |                                  |
|-----------------------------------|----------------------------------|
| LINDSEY O. GRAHAM, South Carolina | RICHARD J. DURBIN, Illinois,     |
| JOHN CORNYN, Texas                | <i>Ranking Member</i>            |
| MICHAEL S. LEE, Utah              | SHELDON WHITEHOUSE, Rhode Island |
| TED CRUZ, Texas                   | AMY KLOBUCHAR, Minnesota         |
| JOSH HAWLEY, Missouri             | CHRISTOPHER A. COONS, Delaware   |
| THOM TILLIS, North Carolina       | RICHARD BLUMENTHAL, Connecticut  |
| JOHN KENNEDY, Louisiana           | MAZIE K. HIRONO, Hawaii          |
| MARSHA BLACKBURN, Tennessee       | CORY A. BOOKER, New Jersey       |
| ERIC SCHMITT, Missouri            | ALEX PADILLA, California         |
| KATIE BOYD BRITT, Alabama         | PETER WELCH, Vermont             |
| ASHLEY MOODY, Florida             | ADAM B. SCHIFF, California       |

KOLAN DAVIS, *Chief Counsel and Staff Director*

JOE ZOGBY, *Democratic Chief Counsel and Staff Director*

SUBCOMMITTEE ON FEDERAL COURTS, OVERSIGHT,  
AGENCY ACTION, AND FEDERAL RIGHTS

TED CRUZ, Texas, *Chair*

|                                   |                                   |
|-----------------------------------|-----------------------------------|
| LINDSEY O. GRAHAM, South Carolina | SHELDON WHITEHOUSE, Rhode Island, |
| MICHAEL S. LEE, Utah              | <i>Ranking Member</i>             |
| THOM TILLIS, North Carolina       | RICHARD BLUMENTHAL, Connecticut   |
| JOHN KENNEDY, Louisiana           | MAZIE K. HIRONO, Hawaii           |
| ERIC SCHMITT, Missouri            | ALEX PADILLA, California          |
|                                   | PETER WELCH, Vermont              |

MICHAEL BERRY, *Republican Chief Counsel*

CLAIRE KIM, *Democratic Chief Counsel*

# CONTENTS

---

## OPENING STATEMENTS

|                                | Page |
|--------------------------------|------|
| Cruz, Hon. Ted .....           | 1    |
| Durbin, Hon. Richard J. ....   | 7    |
| Whitehouse, Hon. Sheldon ..... | 4    |

## WITNESSES

|                                      |    |
|--------------------------------------|----|
| Arkush, David .....                  | 13 |
| Prepared statement .....             | 33 |
| Responses to written questions ..... | 65 |
| Kobach, Kris .....                   | 10 |
| Prepared statement .....             | 44 |
| Walter, Scott .....                  | 14 |
| Prepared statement .....             | 51 |

## APPENDIX

|                                      |    |
|--------------------------------------|----|
| Items submitted for the record ..... | 79 |
|--------------------------------------|----|





# **ENTER THE DRAGON-CHINA AND THE LEFT'S LAWFARE AGAINST AMERICAN ENERGY DOMINANCE**

**WEDNESDAY, JUNE 25, 2025**

UNITED STATES SENATE,  
SUBCOMMITTEE ON FEDERAL COURTS, OVERSIGHT,  
AGENCY ACTION, AND FEDERAL RIGHTS,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice at 2:32 p.m., in Room 226, Dirksen Senate Office Building, Hon. Ted Cruz, Chair of the Subcommittee, presiding.

Present: Senators Cruz [presiding], Durbin, Whitehouse, Blumenthal, and Welch.

## **OPENING STATEMENT OF HON. TED CRUZ, A U.S. SENATOR FROM THE STATE OF TEXAS**

Chair CRUZ. Good afternoon. I hereby call to order this hearing, Enter the Dragon-China and the Left's Lawfare Against American Energy Dominance. We're witnessing right now a systematic campaign against American energy. There is a coordinated assault by the radical left, backed and paid for by the Chinese Communist Party to seize control of our courts, to weaponize litigation against U.S. energy producers.

All in order to undermine American energy dominance. At stake, is a lot more than an industry. Our energy sector is the engine of American prosperity, the lifeblood of our industrial power, our national security, and our geopolitical leverage. If American energy is under attack, so is American security and American independence. The campaign against American Energy is a three-pronged assault.

First, foreign money from entities tied to the Chinese Communist Party flows into the United States to bankroll climate advocacy groups who litigate against American Energy. Second, activist lawyers flood our courts with lawsuits designed not to win policy debates but to bankrupt energy producers and to dismantle energy infrastructure through sheer attrition.

And third, the judiciary itself is being quietly captured and brainwashed as left wing nonprofits host closed door trainings that indoctrinate judges to adopt the ideological goals of the climate lawfare machine. The first prong of this coordinated campaign is a strategic alliance, a cozy financial partnership between leftist, billionaires, radical environmental organizations, and the Chinese Communist Party.

[Poster is displayed.]

One of the primary vehicles for this alliance is Energy Foundation China, which has funneled upwards of \$12 million to U.S. based climate advocacy groups since 2020. And this money isn't going to tree planting campaigns or to science fairs. It's flowing directly to aggressive litigation outfits like the Natural Resources Defense Council, the Rocky Mountain Institute, and the World Resources Institute.

Organizations that routinely file lawsuits trying to block pipelines, trying to ban gas powered vehicles, and trying to bankrupt oil and gas companies. On paper Energy Foundation China's goals may sound benign. Support for clean coal, electric vehicle and global decarbonization. But that raises the obvious question.

If this is truly about reducing emissions, why isn't China investing that money in reducing its own pollution? China is the number one polluter on planet earth. Communist China emits more carbon than the United States and Europe combined. The answer is simple because this is not about climate. It is about global energy dominance and control and it gets worse.

The man at the helm of Energy Foundation China, Ji Zou, is not a neutral administrator. He is a former senior official in China's National Development and Reform Commission. The agency responsible for writing the CCP's 5-year plans, coordinating industrial expansion and steering national energy policy between 2000 and 2009.

And again from 2012 to 2015, Professor Zou served as a key member of China's official climate negotiation team, including during the run up to the Paris Agreement, a deal that gave China a free pass to increase emissions until 2030 while demanding immediate costly reductions from the United States.

That was not an accident, that was not a bug, that was the purpose and he is not the only one. Energy Foundation. China's senior leadership includes other alumni of the Chinese Ministry of Ecology and Environment and affiliated State-run institutions. This is not remotely a grassroots nonprofit. It is a foreign policy weapon disguised as philanthropy, run by Chinese Communist Party operatives.

Flush with funding, the second prong of this campaign is a legal barrage aimed at bankrupting the American energy sector through a coordinated onslaught of lawsuits. And if this feels familiar, it should. It's the same playbook the left used to try to destroy President Trump. They couldn't beat him at the ballot box so they turned to the courts for indictments, dozens of civil suits, fringe legal theories given legitimacy by rogue activist judges.

That wasn't about justice, it was about power. Now they're applying that same strategy to an entire sector of the American economy. Over 30 lawsuits have been filed in at least 15 Democrat-run jurisdictions, including by 12 States targeting oil producers and gas producers and coal producers. Climate lawfare activists have infiltrated American cities and States convincing them to sue American energy companies.

Over 24 pending suits brought by our own State and local governments manipulated by the Chinese Communist government and funded by left-wing groups. And all of them together are crippling

American energy. These lawsuits use creative theories like public nuisance, climate superfund, consumer protection but their objective is clear. Cripple the fossil fuel industry through legal attrition and the damages are staggering.

One suit seeks \$1.15 billion. Another demands \$3.5 billion. The days of Dr. Evil demanding \$1 million are long behind us. These are not good faith disputes. These are weapons. Just in fiscal year 2023, the leading climate law fair groups, not even all of them, just the leading groups, raked in close to \$500 million from U.S. energy companies. That's \$500 million stripped from our energy independence.

[Poster is displayed.]

Driving these lawsuits is Sher Edling, LLP, a private plaintiff's firm that has filed more than two dozen suits. They're not paid by their clients. They're bankrolled by dark money empires like the New Venture Fund and the Tides Foundation. Groups that launder anonymous donations into political litigation. This matters because our domestic energy industry supports over 8.5 million jobs, jobs that these zealots want to destroy.

Our fossil fuels power 84 percent of our national energy. If these suits succeed, here's what the American public will face. Skyrocketing energy costs, a weakened, an unreliable power grid and an historic collapse in American energy production. And the biggest winner in all of this, China, who's paying the bills. This is not litigation. It is strategic sabotage disguised in legalese, executed with precision and aims squarely at the foundation of American strength.

The third prong of this strategy is perhaps the most insidious because it strikes at the very heart of the rule of law, judicial capture. It is being carried out by one organization with near total control over climate related judicial training, the Environmental Law Institute, and its climate judiciary project. If a Federal judge or a State judge is receiving "climate science education today," chances are overwhelming that it is coming from ELI. The group has established a defacto monopoly on climate rating related instruction for the judiciary.

[Poster is displayed.]

[Points at poster.]

They've, "Trained over 2000 judges." They claim to be neutral. They claim to be science driven but what they are doing is ex parte indoctrination, pressuring judges to set aside the rule of law and rule instead according to a predetermined political narrative. Left wing bankrollers like the Hewlett Foundation and the Freedom Together Foundation Fund, CJP. They fund CJP to train judges, so, "Train in climate science and make them agreeable to creative climate litigation tactics."

Then these left wing bankrollers turn around and fund the climate litigators who will bring these bogus cases before those same judges that they've just indoctrinated. This is like paying the players to play and paying the umpire to call the shots the way you want them. On April 1 of this year, in my capacity as Chairman of the Commerce Committee. I sent a letter to the Environmental Law Institute, raising deep concerns about this program.

We have also initiated oversight requests with Federal agencies like NOAA, whose internal documents show a cozy relationship with ELI and its activist curriculum. And here's what we've learned. The Climate Judiciary Project tells judges that, "The consequences of a business-as-usual scenario would be catastrophic." That's called propaganda. And yet it goes on, it encourages the judiciary to view climate litigation as a, "Unique opportunity for accountability."

It even recommends embracing novel tort theories like public nuisance to assign liability for greenhouse gas emissions. Let me ask, is this neutral or is that lobbying behind closed doors? The materials even applaud pending lawsuits, praising the Rhode Island AG's case is, "well-crafted" while failing to mention that similar claims have been dismissed by Federal courts as legally baseless.

And who funds these baseless CJP trainings? The same dark money donors who bankrolled the lawsuits themselves. The same networks that support Sher Edling, LLP. This is not how a constitutional republic functions. Courts are not supposed to be laboratories for political activism and judges are not supposed to be trained by the plaintiff's bar that is receiving their funding from the Chinese Communist Party.

What we are witnessing is judicial capture, driven by ideology, powered by money, and tolerated by far too many. This three-pronged strategy, foreign funding, mass litigation and judicial indoctrination is a full spectrum assault on American energy independence. And while China drills and digs, we sue and shut down. While China dominates supply chains, we dismantle our own in court. And while China prepares for energy dominance, the American left prepares to attack our own domestic capability.

Congress has a responsibility to expose the funding networks, to break the dark money pipelines, to defund the judicial indoctrination programs and to restore legal neutrality to the courts. We must protect American energy, not just on the battlefield but in the courtroom where this war is being quietly waged. Ranking Member Whitehouse.

**OPENING STATEMENT OF HON. SHELDON WHITEHOUSE,  
A U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator WHITEHOUSE. Thank you, Chairman. This hearing is a perfect display of projection; blaming your adversary for what you are doing. Dark money, judicial capture, propaganda. Oh my, the fossil fuel industry would have nothing to do with those things. The hearing ignores that the fossil fuel industry has for decades benefited from secret funding to wage war on the American consumer by making energy more expensive and dirtier, higher utility bills, worse pollution.

Let's examine the facts. First, money. The fossil fuel industry has spent 10 times more on lobbying than environmental groups and the renewable energy industry combined, that's not even counting fossil fuel elections spending. Republican and fossil fuel interests pushed for the citizens' united decision, allowing unlimited election spending by special interests.

Second, dark money. My Disclose Act would require transparency in election spending. We voted on it a half a dozen times, every time every Republican voted against it. Third, energy. Renewable energy is now the cheapest form of energy on the planet. The wind, our sunshine, flowing water and the earth's own heat are all free and essentially unlimited fuel sources their price. Again, zero, does not depend on geopolitical events or international industry cartels beyond our control. As Republicans hold this hearing today, oil and gas gasoline prices have climbed in response to strife in the Middle East.

As Republicans hold this hearing today, tens of millions of Americans swelter through a punishing heat wave made both more likely and more intense by climate change caused by fossil fuel emissions. So, let's talk about climate change. By damaging earth's natural systems, climate change costs Americans money, lots of money.

I suspect that Americans would be more interested in tackling climateflation than an unspooling yet another conspiracy theory from the fossil fuel funded fertile swamp of Republican fever dreams. Climate change is raising grocery prices. Coffee, chocolate, sugar, and orange juice are just a few of the staples whose prices have spiked in response to floods, droughts, and heat waves made worse by climate change.

Climate change is raising electricity costs. Heat waves, hurricanes, wildfires, droughts, and floods, raise generation and distribution costs, raising Americans' utility bills. Heat waves force people to consume more electricity. Air conditioners are running all around Washington today, further raising consumers' electricity bills.

And then there's insurance. This is the big one not just because of the added costs for consumers but because of the risk that an insurance crisis triggers a deep and lasting recession. Increasingly frequent and severe wildfires and storms are making property insurance both unaffordable and unavailable in many places. Texas had the fourth highest average homeowners' premium is in the country last year at around \$6,000.

This year, their projected to increase by another \$500. In Louisiana premiums averaged almost \$11,000 last year. In Florida, they were over \$14,000 and those are projected to get far worse. That's when you can find a company to write coverage. Last year, as Chair of the Budget Committee, I investigated how climate change was driving non-renewals, where your insurance company fires you after you've been a loyal customer for many years because they can't afford the risk of your property.

We found that non-renewals are spiking around the country, up 278 percent in Florida, 267 percent in Louisiana, 944 percent in Chambers County, Texas. Where insurance becomes unavailable, it becomes impossible to get a mortgage. No insurance, no mortgage. Without the ability to get a mortgage property values crash unless of course your billionaires swapping mansions back and forth with your excess income.

Rising insurance premiums on their own also cause home values to decline and a wide scale crash in coastal and wildfire prone home values is likely to trigger a larger economic meltdown like we

saw in 2008. I'm not the only one saying this. An economist cover story last year predicted a \$25 trillion hit to the global real estate market, the world's largest asset class.

Earlier this year, Fed Chair Powell told the Senate Banking Committee that in 10 to 15 years it'll be impossible to get insurance or a mortgage in entire regions of the country. It's already hitting home. I'll share a few articles for the record for the Houston Chronicle, inside the costly new reality of ensuring a home in Texas.

Map, see where extreme weather is pushing up home insurance costs in Texas and the U.S. Houston Chronicle again, Texas has a home insurance crisis. These four charts show how it's getting worse. How much is your Texas home worth if you pay a lot in insurance? Less than you might think. Wouldn't it be great if colleagues on both sides of the aisle would focus on this?

The real danger rather than attempting to project fossil fuel dark money mischief onto the organizations and elected governments that are trying to protect Americans from climate change. Climate change is going to impose immense costs on State and local governments. That is indisputable. Sea level rise and other climate related phenomena are already damaging roads, bridges, ports, water treatment plants and other essential infrastructure. And it will just get worse. One emblem of climate change's cost to governments is the proposed Ike Dike in coastal Texas estimated to cost nearly \$60 billion. Who's going to pay for that?

Governments faced with costs like that have a dilemma. Who do you get the money from? Taxpayers? Do you want to go to taxpayers adding another hit on top of their spiraling insurance premiums and declining home values? Or do you want to look at the responsible party, the fossil fuel industry. To put this into scale, Exxon's profits in the last quarter of last year were \$900 million per day.

If they had to pay a billion-dollar judgment, they'd be over it by 6 a.m. the next day. And the oil and gas industry has known about this problem for more than 60 years. For 3 decades, they hired their own climate scientists and did their own research and their own scientists confirmed that combusting fossil fuels would heat the planet with disastrous consequences for earth's natural systems, that is, for all of us.

And then armed with that knowledge, they lied. They denied the science. They obstructed climate action. They constructed the most complex and mischievous armada of phony front groups that America has ever seen in order to do so. The suits that are at issue in this hearing are brought under a variety of traditional State law tort public nuisance and fraud claims. At their heart, there about who should pay for the climate damages bearing down on folks around the country.

We Democrats believe that the responsible party, the polluter, the fossil fuel industry should pay. So does Milton Friedman, by the way, it's Econ 101, that pollution, a negative externality should be baked into the cost of the product. Republicans, on the other hand believe that American families should pay to protect the free to pollute business model of their favored fossil fuel industry.

By the way, every time somebody on that side of the aisle says the word energy in this hearing, what they really mean is fossil fuel. Every time they say the word energy dominance in this hearing, what they really mean is fossil fuel dominance. It's gotten so bad that the Trump administration actually wrote wind energy and solar energy, which are extremely prevalent and successful in Texas out of their own definition of energy.

They're not just violating economic principles; they're violating the dictionary. That's where we're at. Well, I'm willing to bet that the American people are with us on this one.

Thank you, Chairman.

Chair CRUZ. Well, I thank the Senator from Rhode Island for those effusive words about the great State of Texas. And I would note that for more than a decade, we have had over 1,000 people a day fleeing blue States such as those represented by the Democrat Members of this Committee. And coming to Texas, we right now have over 1,500 people a day coming to Texas because Texas is where the jobs are and you can raise your family safely and with prosperity.

The Ranking Member of the full Committee, Senator Durbin, has asked to give an opening statement as well. Senator Durbin.

**OPENING STATEMENT OF HON. RICHARD J. DURBIN,  
A U.S. SENATOR FROM THE STATE OF ILLINOIS**

Senator DURBIN. Thanks, Mr. Chairman. Last year, President Trump asked a room full of oil industry executives to raise \$1 billion for his reelection campaign. And in return, he promised to reverse the environmental policies of the Biden administration. Big Oil, Big Fossil Fuel eagerly took Trump up on his offer.

They didn't quite make it to \$1 billion for his campaign, but fossil fuel companies spent over \$400 million to elect Donald Trump and other Republicans in the 2024 election cycle. It seems their money was well spent. In less than 6 months, the Trump administration has gutted staff at the EPA, moved to special regulations that ensure clean air and water repeal regulations that ensure clean air and water, instructed agencies to stop considering the cost of carbon emissions and scrubbed even the mention of climate change from government documents and websites.

In our audience today are a lot of students and interns, welcome to Washington. Many of us have been through your experience. I'm glad you're watching this hearing because this hearing is all about you and the world you're going to live on. And whether or not the weather you noticed in June in the District of Columbia is going to be weather you're going to notice in May and April as well.

That's what's at stake here. They say when it comes to heat in Washington, it isn't the temperature, it's the stupidity, the stupidity of Congress when it comes to ignoring climate change, when ignoring what is happening right outside the door. Who wants to place a bet that the overall temperature on the earth is not going to go up this year over last year and next year, over this year, and on and on and on.

And you're thinking about finishing college, getting a job, raising a family, owning a home. This is your world. How we can try to hatch conspiracy theories about the Chinese and God knows what

else. But the bottom line is what are we doing about it? What are we doing for you about it? So your generation has a fighting chance to have a place that's habitable and livable.

I decided about 4 or 5 years ago to take advantage of the tax credits that were available, put solar panels on your home. It didn't catch onto my neighborhood. I'm the only one with solar panels. But let me tell you the reality of the situation. My electric bill in Springfield, Illinois used to be \$120 a month. It's now 15. My solar panels are working out pretty nicely.

But what are they doing now with the new bills? They're considering the reconciliation bills and others, they're doing their best to eliminate all these tax credits and incentives to put solar panels on your home. Why? What in the hell is so insidious and dangerous about a solar panel? That was my conscious decision and my investment and I think it'll pay off nicely for me. Why would you want to set out to do this? Because of fossil fuel industry hates them like the devil hates holy water.

They hate solar panels, but we put them on then and I'm glad we did. President Trump also instructed the Justice Department to sue the States that have enacted laws to force fossil fuel companies to pay for the cost of their pollution and to block lawsuits intended to hold the fossil fuel industry accountable.

Now, Republicans are trying to repeal the tax incentives like the one I just mentioned on my solar panels in my home as part of the President's so called, "Big Beautiful Bill." Less clean energy means what? More pollution, more heat on this planet, higher electricity bills for Americans. Who's going to profit from that? The fossil fuel industry exactly. Climate change is real and it's a huge threat to our economy, our environment, and our way of life.

These facts are undeniable. We need you as young people in America to stand up and say to our generation, "Get the hell out of the way. You're screwing up this planet and we have to live with it." So, give us something that's more hopeful and positive. And it isn't by finding conspiracy theories involving China. Instead of holding this partisan hearing to push conspiracy theories and fossil fuel industry funded attacks on State climate policy, we should be holding bipartisan meetings to address the cost of climate change and to identify bipartisan ideas to produce more clean energy, create jobs and lower energy bills across the country and maybe give you an earth that you can live on.

I yield.

Chair CRUZ. I thank the Ranking Member, and I would note that both of my Democrat colleagues in their remarks had not a word to say about communist China funneling millions of dollars to pay for these lawsuits, miraculously that was absent from their remarks nor——

Senator WHITEHOUSE. I think we referred to it by using the phrase, "Conspiracy."

Chair CRUZ. Yes, you did say you don't worry about conspiracy theories but what is most certainly not a conspiracy theory is that the agenda of the Chinese Communist Party and the agenda of Senate Democrats are identical. Both China and the Democrats want to bankrupt the American energy industry. Both China and the Democrats want to destroy jobs in America and both China and



the Democrats want to increase the price you pay for electricity every month.

And they want to increase the price you pay for putting gas in your car every week. That is the agenda of today's Democrat party. That is the agenda of communist China. And today's Democrats are not remotely embarrassed to have their left wing groups funded by communist China, the world's biggest polluter because China's interest is weakening and hurting America. It makes you ask why an American political party would have that interest as well.

Senator WHITEHOUSE. I would just observe that saying it more loudly doesn't make it more true.

Chair CRUZ. Actually, in Washington, sometimes it does. All right. We will now introduce our distinguished panel. We will start with Attorney General Kris Kobach, who was raised in Topeka, Kansas, where he graduated from Washburn Rural High School. He completed his undergraduate studies in government at Harvard University. I've heard of them.

Graduating first at his department in summa cum laude, a Marshall scholar. He received his PhD in politics from the University of Oxford. He received his JD from Yale Law School serving as notes development editor of the Yale Law Journal. Attorney General Kobach clerked for the 10th Circuit Court of Appeals and shortly thereafter became a professor of constitutional law at the University of Missouri, Kansas City School of Law from 1996 to 2011.

During that period, Attorney General Kobach received a White House fellowship from President George W. Bush. He served in the United States Department of Justice under Attorney General John Ashcroft as Counsel to the Attorney General. Attorney General Kobach served as the 31st Kansas Secretary of State from 2011 to 2019.

In 2017, President Trump tapped him to lead the Presidential Commission on election integrity. As an attorney in private practice, Attorney General Kobach litigated some of the most high profile cases in the country, including defending statutes and ordinances against the ACLU on multiple occasions. In 2012, he brought the first challenge to President Obama's DACA amnesty on behalf of 10 ICE agents.

In 2022, he represented 36 members of the Air Force and the Air National Guard who were denied a religious exemption to the Biden Vaccine Mandate. Attorney General Kobach was elected as Kansas' 45th Attorney General in November 2022. As Attorney General, he led and personally argued multiple challenges to the illegal actions of the Biden administration, including obtaining an injunction, stopping Biden's illegal Title IX regulation that would've opened women's locker rooms and facilities on college campuses to biological males.

He also stopped the Biden administration's regulation that provided Obamacare benefits to illegal aliens. In 2024, the Nation's Republican Attorney's General elected him chairman of the Republican Attorney General Association. He lives near Lee Compton with his wife Heather and their five children. Our second witness is David Arkush.

Senator WHITEHOUSE. May I? He's a minority witness.

Chair CRUZ. In practice, the Chairman has always introduced all the witnesses.

Senator WHITEHOUSE. I don't think that is the practice but that's okay if you don't want to provide me that courtesy, proceed.

Chair CRUZ. David Arkush is the Director of Public Citizens Climate Program. He is an expert on the climate crisis, financial regulations, regulatory law and policy and consumer and worker protection. He has broad experience building coalitions and advocating for the public interest, having interacted extensively with Congress and regulatory agencies and litigated complex cases in the Federal courts.

Before running the climate program, David spent 5 years directing Public Citizens Congress Watch Division, where he led strategic research and advocacy campaigns and played key roles in the passage of laws including the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and the Consumer Product Safety Improvement Act of 2008.

A Time magazine profile of David notes that he has, "Advocated for consumer protection, advised breaking up the largest too big to fail banks and addressed other industry structure issues while investigating the financial sector's myriad ties to the Government."

David has also taught administrative law and legislation at the University of Richmond School of Law. He graduated with honors from Harvard Law School where he served as managing editor of the Harvard Civil Rights Civil Liberties Law Review and with honors from Washington University in St. Louis, where he was elected to Phi Beta Kappa.

Our third witness, Scott Walter, is President of Capital Research Center. He served in the George W. Bush administration as Special Assistant to the President for Domestic Policy, and was Vice President at the philanthropy Round Table, editing Philanthropy magazine and producing donor guidebooks on assistance to the poor, public policy research and other topics.

Walter has testified to six Committees in Congress, and to the IRS, and numerous State legislatures, and he has written for and been quoted in such outlets as The New York Times, The Washington Post, The Wall Street Journal, and the Chronicle of Philanthropy. A Georgetown graduate, he served as a senior fellow at the Beckett Fund for Religious Liberty, and is senior editor of AEI's flagship publication.

He is the author of Arabella: The Dark Money Network of Billionaires Secretly Transforming America. He and his wife Erica, have four children and live in Virginia. I would ask each of the three witnesses to please rise for the oath.

[Witnesses are sworn in.]

Chair CRUZ. All of you have answered affirmatively. General Kobach, you are recognized for your opening statement.

**STATEMENT OF HON. KRIS KOBACH, ATTORNEY GENERAL,  
STATE OF KANSAS, TOPEKA, KANSAS**

Mr. KOBACH. Thank you, Mr. Chairman, and distinguished Members of the Committee. I appreciate the opportunity to testify today about environmental lawfare. As Attorney General of Kansas, I've

represented the State of Kansas in multiple environmental cases in this broad category of litigation.

Because my experience is greatest in the litigation itself rather than on the various connections to China, I will focus principally on the litigation. Touching briefly on the China connections where I am familiar with them. I want to jump straight to what we see that's new in environmental litigation. We're all familiar with the past decades of litigation.

There are two new types of litigation we're seeing just in the last few years. First, we are seeing laws or regulations coming from specific States that are extra territorial in scope. In other words, the law doesn't just regulate the State and the residents of that State. It attempts to regulate the whole country.

And I'll give you two principal examples of this. And the main way to stop these laws right now and to try to restore Federal, nationwide uniform regulation in the environmental sector is for either the justice department or for a State to sue. First in 2023, the California Air Resources Board or CARB promulgated their advanced clean fleet regulation, which mandates a transition to zero emission trucks on highways in California by 2035 for medium duty vehicles by 2042 for all other vehicles.

But most fleets would have to meet emission targets starting this year in 2025. This CARB regulation masquerades as an in-State rule. But really it is a nationwide rule because of California's scope and because so many ports are in California, trucks have to go through and if they go through California for one bit of one day then they're subject to the regulations. It would effectively create a national policy regulating trucks all over the country.

And of course, usurp Congress's prerogative, presumably something the Committee cares about here. In 2024, Nebraska and Kansas and 15 other States sued California, challenging California's CARB regulation, arguing principally that it was preempted by two Federal statutes. Candidly, California was never going to win this case in court. You had those two express preemption provisions and then on top of that, they had to get a waiver from the EPA.

They applied for that waiver but by the time of the recent election had not yet obtained it. And then in January of this year, California backed down, withdrew their waiver request, and entered into settlement negotiations with the plaintiff states of which I'm one. But not all extraterritorial State laws are defeated so easily. The ones that are currently in litigation are the so-called climate change Superfund laws in like late 2024.

New York enacted one and then in early 2025 Vermont followed. The New York Law Forces climate companies to retroactively pay fines, totaling \$75 billion for the past 25 years of fossil fuel emissions, the carbon emissions, the CCP backed Chinese American Planning Council lobbied heavily for the New York Superfund Law.

In February, 2025, a group of Republican-led States, 22 of us sued in the U.S. District Court for the Northern District of New York. We are maintaining that it is impliedly preempted by the Clean Air Act, since it obviously interferes with Congress's objective of having a uniform national law. It also violates the equal sovereignty of the States.

But I make the point in my written testimony, this is one area where express preemption would be much more helpful. And I'm normally a strong opponent of preemption. I think Congress should reluctantly preempt State laws and courts should reluctantly read between the lines of congressional statutes to find preemption. But this is one area where I believe express preemption will be helpful to Congress and to the States so that we have a uniform national policy. And there's language I suggest on page 5 of my testimony.

The second threat is something the Chairman alluded to and that is lawsuits brought by cities and counties. And these are all over the country. There's over 30 of them. I want to briefly describe a couple of them. One is *Rodriguez versus Exxon Mobil*. In that case, Ford County, Kansas, where Dodge City is, is one of the plaintiffs attempting to represent not just Ford County, not just Kansas counties, but to represent all counties in America and all of their representatives.

In other words, it's purporting to represent everybody in this country. They're bringing a case under the theory of public nuisance but they're also doing something different. They're attempting to usurp the State's prerogative as *parens patriae*. That is to say the State's Attorney's General have the authority to bring a case to protect the broadly rich health and welfare of the citizens of the State.

So in addition to usurping Federal authority by trying to make a national policy in that case against plastics, they're also usurping State authorities. As Kansas' Attorney General, I've intervened in that case and also in a companion case or a similar case with similar plaintiffs, going after shale oil production in New Mexico. There's another case that's further along. It's *Mayor and City Council of Baltimore v. BP*. That one's in the Maryland Supreme Court right now. I think that where Congress can be helpful in these cases is in getting to the bottom of where the money is coming from.

The case has been going on for 8 years. There's not a single dollar that's been won in damages. Yet, tens of millions of dollars in attorney's fees have been expended already. The money is coming from somewhere. The foundations are getting their money from somewhere. It's reasonable to ask if China is part of that equation. And I think, I would hope that there'd be bipartisan support for disclosing foreign funding of third-party litigation.

And so, in conclusion, I would say we will continue these fights in court as the State Attorney's General. But we do need some help from Congress. And I think these are modest requests for legislation preemption that would preserve the prerogatives shared by both parties for congressional national uniform legislation and also some transparency where foreign entities and foreign countries are engaged in this litigation.

[The prepared statement of Mr. Kobach appears as a submission for the record.]

Chair CRUZ. Thank you General. Mr. Arkush.

**STATEMENT OF DAVID ARKUSH, DIRECTOR,  
PUBLIC CITIZEN CLIMATE PROGRAM, WASHINGTON, DC**

Mr. ARKUSH. Chairman Cruz, Ranking Member Whitehouse, Ranking Member Durbin, thank you for the opportunity to testify today. Right now, there's a brutal heat wave afflicting half the United States. Energy costs and insurance premiums are skyrocketing. And we're sitting here in the U.S. Senate talking about Chinese communist conspiracy theories straight out of the 1950's. I don't think this is the right priority.

That said, there is a conspiracy here and it's the obvious one in plain sight. Big Oil has made trillions of dollars in profits over the past several decades and the industry is extremely harmful. It kills millions of people every year and has cost us trillions of dollars. The industry knew decades ago that burning fossil fuels would cause in its own words, "Globally catastrophic harm."

What it chose to do with that knowledge is remarkable. Imagine you've learned that something you are doing will cause globally catastrophic harm, will have, "Serious consequences for humanity's survival. Those are the industry's words." I hope you would stop doing it.

If for some reason you can't stop immediately because of the economic importance of your industry then you could still alert the public and help work toward solutions, including selling safer, better forms of energy yourself. Worst case, you could at least keep quiet while other people go about learning about the problem and figuring out how to fix it.

But the oil industry did none of these things. Instead, it actively lied and deceived people, spending millions of dollars on a deception campaign to cast doubt on science that the industry itself knew was correct. They had polling in the 1990's that showed strong public support and public concern for climate change. And that showed that public support for climate change turned to opposition when people were told that there was scientific disagreement about climate science.

So that's what they did. Manufacture doubt about climate science and fraudulently claim that scientists disagree about it. Even more remarkable, it's clear they believed the science themselves because they used it. For example, in the 1990's, they raised the height of offshore oil platforms to account for the sea level rise that they predicted.

They did this while arguing to the public and Congress that climate science was too uncertain to make any costly economic decisions about it, but they weren't uncertain. They moved to protect their own investments and interests while lying to everyone else. This was also, they could keep profiting enormously but the rest of us have not profited, far from it. On the contrary, we're paying dearly. Last year alone climate related harms cost Americans nearly \$1 trillion, more than 3 percent of GDP.

This is like a stealth tax on all of us. Insurance premiums are skyrocketing due to climate driven extreme weather insurance companies are pulling out of more and more places, even whole States. The Chair of the Federal Reserve, as Senator Whitehouse noted, recently testified to a Senate Committee that there are whole re-

gions of the country, where in 10 or 15 years you won't be able to get a mortgage and there won't be bank branches or ATMs.

This will have devastating economic consequences for our country. A large proportion of climate related costs are already uninsured and the burden is increasingly falling on American families and State and local governments. Some of those governments are trying to hold Big Oil accountable for a fraction of those costs so that the polluter's responsible for the damage pay the cost instead of taxpayers getting stuck with the bill. This is a basic principle of fairness.

Something we teach to our toddlers. You make a mess, you clean it up. Also, the notion that a person who causes damage should pay for it is as old as law itself. You can see it in the Code of Hammurabi written nearly 4,000 years ago. But oil companies don't like this principle because they're causing more harm than perhaps anyone else in human history and they don't want to pay what they owe. They don't want the normal rules to apply. They want you to shield them from accountability and they're pushing for it in part by funding people to spin cockamamie theories about China like the ones we're hearing today.

Speaking of China, if anyone is helping China right now in our political system, it's the party pushing what I think of as a serious energy retreat and the Big Ugly Bill in Congress. Some people call it the Big Beautiful Bill. That bill would put China way, way ahead of the U.S. by strangling our renewable energy, stifling innovation, and locking us into forking over hundreds of billions of dollars every year to the dirty, dangerous, expensive energy of 200 years ago, fossil fuels.

The bill could shatter 331 factories and kill 330,000 jobs in the U.S. solar industry alone, mostly in red States, including ones represented by Members of this Committee. But that's what Big Oil wants and that's the industry that happens to fund the elections of politicians supporting the bill and funds a vast network of groups that are still lying on its behalf. That's the conspiracy here, the obvious one in plain sight. Thank you.

[The prepared statement of Mr. Arkush appears as a submission for the record.]

Chair CRUZ. Thank you. Mr. Walter.

**STATEMENT OF SCOTT WALTER, PRESIDENT,  
CAPITAL RESEARCH CENTER, WASHINGTON, DC**

Mr. WALTER. Chairman Cruz, Ranking Member Whitehouse distinguished Members of the Subcommittee, thank you for the honor of testifying. I'm Scott Walter, President of the Capital Research Center, where we study special interests. It's no accident as the Marxists say that China has deep ties to the environmentalist movement. Whatever their intentions, radical climate activists advocate policy after policy that objectively strengthens China and weakens America.

Whether it's hindering our production of energy, boosting China's energy resilience, or making our supply chains dependent on Chinese inputs. As the report by State Armor I cited documents, the Chinese Communist Party has every incentive to support climate activism in America. Unfortunately, as I also document, China

finds willing partners in activist groups like the Rocky Mountain Institute, the California China Climate Institute and Energy Foundation China.

The Energy Foundation Scheme is not subtle. It's headed by a former influential Chinese government official and sends money to activists at groups like the Rocky Mountain Institute and the Natural Resources Defense Council. It also sends money to activists in universities like Berkeley, UCLA, and Harvard. But foreign nationals in China aren't the only ones who attack our energy independence and threaten to make it harder for working class Americans to heat and cool their homes and drive their cars and trucks. Billionaires around the world add to the threat.

In Australia, the billionaire Andrew Forrest works with American tort lawyers and groups like the Sierra Club and the Center for Climate Integrity to put a major U.S. energy company out of business through lawfare that bypasses the democratic process. A British billionaire, Sir Christopher Hohn also funds the Center for Climate Integrity as well as law breaking radicals at Extinction Rebellion.

Then, there's the biggest foreign national billionaire working to manipulate America's politics, Hansjörg Wyss, who's poured over \$650 million into the American left. Recipients have included Earthjustice Legal Defense Fund, ClimateWorks, and the minority witness's employer, Public Citizen.

But Wyss is best known for giving \$278 million to the Sixteen Thirty Fund, a 501c4 operated by Arabella Advisors and called by the Atlantic, "The indisputable heavyweight of Democratic Party dark money." Sixteen Thirty passes along tens of millions of dollars to the League of Conservation Voters and other environmental groups. Then there's the new Venture Fund to which Wyss has given \$82 million and which is also operated by Arabella. They run the largest dark money network in the country on either side.

New Venture has donated over \$1 million to Mr. Arkush's Public Citizen and it also runs the Collective Action Fund. That group pays the fore profit firm Sher Edling to sue energy companies on behalf of States like Rhode Island and cities like Baltimore, in hopes judges will force policies on our country that majorities of Democrats and Republicans oppose, policies that should be resolved through the political process by voters and their elected representatives, not by private lawyers and their ideologically motivated funders.

Climate lawfare in America is also funded by homegrown billionaires. Many with the same last name, "Foundation." Hewlett and Rockefeller philanthropies stand out joined by many more like Ford and MacArthur, who provide a handful of climate lawfare groups a half billion dollars a year.

Billionaire Michael Bloomberg supports lawfare by paying to install activists in State Attorney General offices, hoping they'll sue energy companies and achieve policy changes they can't win through democratic legislatures.

So far, they're mostly losing in the courts too. The *New York AGs* case was dismissed with prejudice. Climate lawfare raises ethics issues too. Contingency fees for firms like Sher Edling presume they're taking a risk but are they, if they have prior funding? Did

these firms disclose that funding to government clients? If the Government clients knew, did they disclose the funding to the public?

Another ethics problem, the Climate Judiciary Project runs educational programs for judges about climate change and lawsuits. One observer calls it an effort by the climate tort movement to brief judges on the plaintiff's cases with supposedly neutral information.

Yet the speakers come from the plaintiff's witnesses and amicus brief filers. This effort to capture courts deserves your oversight. If the public knew climate lawfare's cost and its ties to foreign influence, they'd be outraged. I hope this hearing begins to reveal the truth. Thank you.

[The prepared statement of Mr. Walter appears as a submission for the record.]

Chair CRUZ. Thank you. What we're seeing is not the rule of law. It's lawfare. These lawsuits aren't meant to succeed on the merits. They're designed to exhaust, to intimidate and to destroy America's energy sector, death by a thousand cuts. We've even seen private parties get in on the act. One of the most infamous examples was *Juliana versus United States*, where 21 people sued the Federal Government claiming that allowing climate change to persist violated their due process rights.

A Federal district judge in Oregon actually agreed, comparing the right to a stable climate to the right to same sex marriage. She was prepared to enjoin the entire Federal Government, effectively putting the energy industry into judicial receivership at the behest of "children." Fortunately, the Ninth Circuit, by far the most liberal court of appeals in the country shut it down and eventually a unanimous Supreme Court did as well.

Funded by deep pocketed climate activists and left wing dark money, the anti-American energy lobby and its allies in the plaintiff's bar have initiated dozens of civil lawsuits against American energy producers. These suits, which assert State law claims under dubious nuisance toward or consumer protection theories are properly preempted by Federal law.

Nevertheless, they have proliferated across the country and they're exposing energy producers to potentially trillions of dollars in damages. There are now more than 30 active lawsuits across the country accusing energy producers of misleading the public about carbon emissions and climate change. If successful, these suits could destroy millions of jobs and raise the energy cost of every consumer in America.

Let me start with the legal foundation. General Kobach, have any of these climate lawsuits brought under public nuisance or similar theories been upheld on the merits by a Federal Appellate Court?

Mr. KOBACH. No, Senator. And none of them have been upheld on the merits by a State appellate court either. The case that is closest to a higher-level decision right now is the *Baltimore* case, *Baltimore versus BP*. It's several consolidated cases. That's basically a case where Baltimore is suing the fossil fuel industry, defendants for climate change generally.

A lot of these others are more specific like shale oil production or plastics but they're just global warming. And the District Court



in Baltimore ruled against the plaintiffs on all eight grounds. That's a pretty big deal and they now are appealing to the State Supreme Court. That one will probably be decided later this year, early next year. But that's the biggest or nearest chance the plaintiffs have to achieving a victory. But they have got no victory so far.

Chair CRUZ. And isn't it true that many of these suits are brought by cities and counties that lack the legal standing to assert injuries on behalf of the entire public?

Mr. KOBACH. Yes, Mr. Chairman and that's what I was alluding to when I mentioned *parens patriae*. The State has the responsibility—*parens patriae* is Latin of course for parent or father of the country and the State Attorney General, which represents the State at large, has that sovereignty. Our Constitution contemplates that States have sovereignty and they conceded some of that sovereignty to the Federal Government.

But localities are creations of State government, localities do not possess the sovereignty the State does. And so, while some people may be upset that we have 50 States and the States take different positions in some of these legal cases, the States have at least the right to represent their residents. Cities do not, counties do not.

And so, it massively multiplies the, the potential plaintiffs out there. And it becomes nonsensical in a legal sense for a city in one end of a State and a city on the opposite end of the State to both purport to represent the residents of the same State. And in the cases I mentioned, they're purporting to in a class action format, represent all representatives, represent all citizens and residents of every county in America. So they've taken public nuisance theory to a bizarre extreme. And they've also usurped authority of State Attorney's General.

Chair CRUZ. Well, that may help explain why they're losing so many of these cases. Mr. Walter, Sher Edling has filed dozens of climate lawsuits. Are they being paid by the Government entities they represent or by anonymous left wing donor networks like the new Venture Fund?

Mr. WALTER. I believe the vast majority of the funding comes from the outside funders, yes.

Chair CRUZ. Isn't it also true that one of the biggest sources of funding for U.S. based environmental litigation groups is Energy Foundation China, an organization run by a former senior Chinese Communist Party official who helped craft the CCP's 5-year energy plans?

Mr. WALTER. Energy Foundation China channels tens of millions of dollars to numerous environmental groups. Yes.

Chair CRUZ. Now, Mr. Walter, my Democrat colleagues have said that's a crazy conspiracy theory. What is the basis for saying that energy Foundation China is funneling so many millions of dollars into these suits?

Mr. WALTER. Well, their own IRS filings because they're are 501c3 registered in San Francisco.

Chair CRUZ. If this were really about reducing emissions, wouldn't we expect Energy Foundation China to give a damn about the worst polluter on the face of the planet, that being communist China?

Mr. WALTER. That would be logical. Yes, Senator.

Chair CRUZ. And yet their lawsuits are designed to destroy the American energy industry, which happens to perfectly coincide with the political objective of Senate Democrats to destroy the American energy industry. Would the result of that help or hurt America and would it help or hurt China?

Mr. WALTER. Well, obviously it would help China vis-à-vis the United States and it would certainly be highly problematic for everyone in the United States.

Chair CRUZ. Thank you. Senator Whitehouse.

Senator WHITEHOUSE. Just for the record, at least as to me, my personal objective is to reduce fossil fuel emissions to the point of safety, which can be done in a lot of ways, including by reducing fossil fuel emissions or scrubbing them out of the fossil fuel power plants or replacing burning water to make steam with fossil fuel to run the turbines with boiling water, with nuclear, solar, other ways to run the turbines.

So, this is not about destroying the fossil fuel industry. This is about getting the fossil fuel industry to behave like a responsible citizen while it is causing so much harm. On the subject of harm, the International Monetary Fund has pegged the subsidy to fossil fuel in the United States every year from getting away with polluting for free, which is not moral, not economic, not environmentally correct. At over \$700 billion, \$700 billion.

No wonder it's such a monster in the political landscape when it's defending a \$700 billion annual subsidy. But more than that, the damage that it does rolls forward. And one of the areas we're seeing it most clearly now is through the insurance industry. And Mr. Arkush, I'd like to ask you a little bit about that [points at witness]. There have been reports, not from green groups, from major insurance companies, from major mortgage companies, from very respected financial experts that once climate change makes weather and weather conditions too unpredictable, there become areas of the country that can't insure themselves any longer.

And once they can't insure themselves any longer in that area, you can't get mortgages any longer, which means that property values crash in that area and that local bankers suffer because their loan to value ratios crash and their mortgage revenue crashes. And that the combination of that local economic effect with the property value loss to those homeowners cascades into a full on 2008 style recession. Could you walk us through that and where we're seeing some current examples of that already beginning to appear?

Mr. ARKUSH. Sure. That's exactly right. Again, no less than the Republican Chair of the Federal Reserve has said that there are whole regions of the country that soon you won't be able to get a mortgage and there may not be bank branches or ATMs. And that is because of insurers withdrawing from those areas. And the way this works is that climate harms raise insurance rates or cause insurance insurers to withdraw entirely. They're withdrawing from entire States. There are headlines about this every other month.

When insurance becomes too expensive to afford or is just unavailable, that dramatically drops home values because you can't get a mortgage without insurance. And if you can't get a mortgage on a property, that dramatically shrinks the buying pool. And also,

if the insurance is just really expensive, the expenses of paying for any asset or any kind of ownership reduce the value of the asset, right?

Senator WHITEHOUSE. My point in my opening remarks, if the average homeowners insurance price in Florida is now \$14,000 a year.

Mr. ARKUSH. Yes.

Senator WHITEHOUSE. And if that's predicted to double or triple, let's say it doubles, now you go to \$28,000 a year.

Mr. ARKUSH. Yes.

Senator WHITEHOUSE. If when you buy a home you're signing up for \$28,000 a year in expense out of your pocket?

Mr. ARKUSH. Just for insurance.

Senator WHITEHOUSE. Just for insurance, what does that do for the value the home?

Mr. ARKUSH [continuing]. Not for maintenance, not the home, not the taxes, not for anything else. That's right. Then it gets a lot harder to sell your home, that's for sure.

Senator WHITEHOUSE. Yes. The price goes down.

Mr. ARKUSH. And the value of your property falls a lot. Yes, that's absolutely right. And that's what we're seeing in Florida, people are losing their insurance. It has some of the highest premiums in the country. It has some of the fastest premium increases in the country. According to data from the Federal Insurance Office, there was a 168 percent increase from 2018 to 2022.

And Floridians who have to go to the State last resort insurer, Florida Citizens because they can't get insurance from anyone else. Ten percent of Florida homeowners already don't have insurance. And more and more people are unable to afford these premiums. It could easily cause a real estate crash that has nationwide effects. As you said, just like the financial crisis of 2008 which had its roots and a sharp decrease in home values.

Senator WHITEHOUSE. And Mr. Arkush, just a last question. If an industry is lying to the public about the dangers of the product that it sells, is that established to be a legally actionable situation? And is the Tobacco Lawsuit an example of that?

Mr. ARKUSH. That's exactly right. There are, these are not novel legal theories. In fact, they're some of the oldest in our country. Some of them go way back, way before our country in English common law. If you're responsible for harms, you pay for them. If you can't commit fraud to consumers you can't engage in a fraud racket. And a fraud racket is exactly what big tobacco engaged in and was successfully sued by the U.S. Department of Justice for.

Senator WHITEHOUSE. Thank you very much. And State Attorneys' General points out our State Attorney General——

Mr. ARKUSH. And State Attorneys' General. That's absolutely right.

Chair CRUZ. Thank you. Senator Durbin.

Senator DURBIN. I'd like to followup a little bit on this discussion about lawsuits because I think that's part of why we're here today. It isn't just trying to identify the threat as being Chinese conspiracies or whatever it happens to be but it's also to slow down the pace of lawsuits being filed against major elements of the American economy.

In this case, the fossil fuel industry. Sheldon Whitehouse, my colleague, mentioned the tobacco issue. I know that one little bit because in 1988 in the House of Representatives, I successfully passed a bill to ban smoking on airplanes. Yes, that's true. We used to smoke on airplanes in the smoking section. How about that for a fantasy?

And the fact that we had the largest frequent fire club in the world, in the House of Representatives led to many revolt. We banned smoking on airplanes, but in order to finally get real regulation on tobacco and smoking, we couldn't do it through the House or the Senate. It had to be done in court. And it was done when States came together, General Kobach, States came together and said, "We're going to all sue the tobacco companies."

It took years for them to do it but they did it successfully. And what happened? Tobacco became less of a scourge to public health in America. And the likelihood that young people sit in this audience smoke has diminished dramatically. Now we have new challenges, social media platforms that are exploiting young people. We've had testimony before, Judiciary Committee, and we're all members of it, of people whose children some committed suicide. Others were exploited terribly with sexual images on the screen.

And the industry is oblivious to this because they're protected under law under Section 230 from liability for this activity. If we can crack through with lawsuits on the social media platforms, we can change things dramatically. In the last week or two, you probably heard about the opioid settlement, \$7 or \$8 billion to be distributed, lawsuits. The point I'm making to you is part of the agenda here is to somehow assign to lawsuits some insidious or evil motive and why they're being formed and filed.

And the fact is that they're doing what we expect them to do. Speak up for the consumer, try to bring some justice to a situation which otherwise doesn't have it. We know the fossil fuel industry is polluting this planet that we live on terribly. I can tell you this, a couple of successful lawsuits and they'll think twice about it. It changes. We changed the tobacco industry. Opioids changed. They can change.

But you go to the courtroom to make that to happen. I don't think it's necessarily the Chinese motivating us. We're looking for justice. And that's fundamental. It doesn't come from China. It comes from the heart of America too. The last point I would like to make to you is that we have an opportunity here to do something now, to provide opportunities for diminishing the pollution that we're living with.

Ignore it and it'll be too late. We've got to show some leadership in this country. The bill pending before the U.S. Congress on Reconciliation eliminates most of the incentive programs for renewable fuels. And that to me is something we'll pay a price for years to come. This is not a thoughtful thing. This is inspired by a President who calls global warming a hoax. I don't think it's a hoax. I think it's reality. And I think we need to do more about it. I yield.

Chair CRUZ. Thank you. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman. The Tobacco Lawsuit was in fact brought by State attorneys' general and just as a historical footnote, we went to the Department of Justice and asked

them to join us. They refused to do it. They said it couldn't succeed. And they also said the tobacco companies have never lost a lawsuit. They have never settled a lawsuit and you'll lose. Well, as it turned out, eventually, all the Attorneys' General of the United States of America, including Kansas, joined our lawsuit after a while, after we were successful because of the legal action based on the Unfair Trade Practices Act of the State of Connecticut, the State of Minnesota, the State of Massachusetts, the State of Florida.

The core States that brought that lawsuit relied on deceptive and unfair practice allegations, saying that the tobacco companies were lying when they said, "Our product doesn't cause cancer. It doesn't cause death. It doesn't cause disease." It was a good old-fashioned garden-variety consumer protection case. It also involved antitrust allegations in Mississippi. It was an equity action.

It's more complicated than I am describing it right now but your State of Kansas, I think it's probably still getting money. Every year, every State in the country gets money to combat tobacco because it relied on the good old fashioned consumer protection statutes that say, "When you make a promise to consumers, it has to be truthful and accurate."

And so, I assume that all of the witnesses here support those kinds of consumer actions, correct? I'll begin with you, Attorney General?

Mr. KOBACH. Yes, I do. When it fits into the correct legal box. So, for example, the tobacco lawsuits were brought under the State Consumer Protection Acts that you mentioned and every State has one. And they're based on the notion, which is very clearly laid out that the manufacturer of a product misrepresents the product to the consumer of the product and the consumer purchases it and suffers some injury or harm.

And it's because of that deception. It's much harder to fit climate change lawsuits into that box because there's no secret about the fact that fossil fuels are used in internal combustion engines and that those internal combustion engines emit CO<sub>2</sub>.

Senator BLUMENTHAL. Well, but the State of Connecticut is suing Exxon Mobil right now under the Connecticut Unfair Trade Practices Act, saying basically it's lying about its product and the dangers and damages done by its product. You were suing Pfizer, same kinds of allegations, correct?

Mr. KOBACH. The similarity is—

Senator BLUMENTHAL. But no one is accusing you of trying to destroy the American drug industry.

Mr. KOBACH. No, I don't think so. But I think they're not the same. The same, they both try to use a consumer protection box to put the case in. In the case of the *Pfizer*, they made certain representations about their product and that turned out to be contrary to the information they had and the individual took it to direct harm to himself.

In the case of fossil fuels, you have a broad public debate about the harms and how big they are, who's causing the harms. You also have third parties because it's not just the oil company.

Senator BLUMENTHAL. But in the court, Connecticut has to prove its allegation, the facts behind the allegation that in fact the com-

pany is misrepresenting its product just as you have to prove by the way, as you well know——

Mr. KOBACH. Right. Absolutely. Yes.

Senator BLUMENTHAL [continuing]. Your case has been remanded to State court. So you'll have your day in court there but no less than if you were in Federal court. You're going to have to offer evidence that proves your allegation. Same is true of Connecticut in suing Exxon Mobil. I don't see how, as a lawyer you can say, "Well, the claims under the statute are wrongly brought just because it's a different industry." And because there is a public debate because——

Mr. KOBACH. I'm not saying you can't——

Senator BLUMENTHAL [continuing]. Also, about the American drug industry.

Mr. KOBACH. I'm not saying the claims are wrongly brought. I'm saying they have a much harder time proving the claims because there's less deception, there's also third parties and also the—it's not just the fossil fuel extraction company. You have the factory that uses, burns the fuels. You have the individuals themselves who drive to work in a car. Probably most of us flew here from some point on a plane.

Senator BLUMENTHAL. My time has expired but I could take the words exactly that you just uttered and substitute tobacco and they would be identical to what the tobacco industry was saying about our lawsuit at the time. Thanks, Mr. Chairman.

Chair CRUZ. Thank you. I would note that multiple Democrats said the idea that communist China was funding this litigation and assault in American energy was a "Conspiracy theory." I thank Mr. Walter for pointing out the basis of it are the IRS filings from the China Energy Foundation. I have in front of me just one of those filings, the form 990 from 2023 and I turned to their disbursements.

And in 2023, they gave the University of California Berkeley \$150,000. They gave the Rocky Mountain Institute \$350,000. They gave the International Council on Clean Transportation, which I don't know what that is, but it's on K Street in Washington, \$770,000. They gave Harvard University \$80,000. They gave the Institute for Transformative and Development Policy in New York, \$254,000.

They gave the University of California Los Angeles \$150,000. They gave the University of Maryland College Park \$250,000 and they gave the Natural Resources Defense Council \$200,000. This is just 1 year. You can pull their 990 for every year but I ask unanimous consent that this be admitted into the record without objection.

[The information appears as a submission for the record.]

Senator WHITEHOUSE. Without objection? I think it is important to clarify at the end of the day which one of those groups are actual litigants. You said litigants and whether the money goes to the litigation as opposed to the activities that those groups have legitimately in China trying to knock down Chinese emissions. It is Republicans who are fond of saying, "We might as well throw our hands up in the air about climate stuff because the Chinese are doing so much polluting."

So, I think it is good that, let's say NRDC is on the ground in China fighting Chinese pollution in China. If that is what they're doing. It is a very different thing than having a Chinese conspiracy that funds a litigating group here in the United States in U.S. litigation. So that's a perfectly legitimate exhibit to enter into evidence. I have no objection to it but it doesn't prove your point yet.

Chair CRUZ. So, I guess you and I disagree in that. I don't think it's good that these left wing activist groups that are litigating and trying to destroy jobs in this country and destroy American energy are being funded by the Chinese communist and the Chinese communist interest are directly antithetical to the interest of the American people. I'm going to ask a couple of more questions and I'll get—I'm sorry. Mr. Welch came back. Senator Welch, I didn't see you come back in.

Senator WELCH. Thank you. So, Mr. Walter, I favor the provisions of the IRA that are being repealed. You're aware of what's going on there, right?

Mr. WALTER. To some degree.

Senator WELCH. All right. I mean, if all the people you've mentioned, all of the folks who you indicted for kind of using Ted Cruz's language, left wing radical ideas, how do you distinguish between a person whose motivation is to be left-wing Chinese sympathizer and people who just disagree with the fossil fuel industry, that climate change in fact is real and we have to do something about it? Can you explain to me?

Mr. WALTER. Well at the beginning of my oral testimony there, I made the distinction between whatever the intentions of various folks may be. They're objectively assisting China in its desire to compete with United States.

Senator WELCH. Like the Hewlett Foundation?

Mr. WALTER. Yes.

Senator WALTER. Seriously? Walter Hewlett, his foundation you think is in bed with the Communist Party?

Mr. WALTER. Well, that's not what I said, is it? I said that objectively they're aiding the Chinese communists but I did not say that they themselves were communists.

Senator WELCH. Right. But what you're doing is denying them the ability to make their own judgment about what's good public policy for the benefit of this country by saying that they're—and this really is how I hear it. Dupes of the Communist Party because what they're doing aligns you say with the communist?

Mr. WALTER. Well, they give a good deal of money for instance to the Energy Foundation China, that the Chairman has been discussing, which is run by a former Chinese communist official.

Senator WELCH. So, if by virtue—does China have any environmental problems?

Mr. WALTER. It has grave environmental problems, yes.

Senator WELCH. So, if there are some Chinese that want to deal with their environmental problems and we agree that there are environmental problems. And we also know that climate change can't be solved by one country and other countries start to do something about it, is that a problem for you?

Mr. WALTER. Well, I have to say that I'm skeptical that former Chinese communist officials are interested in doing anything that would harm their country.

Senator WELCH. Who are some of the other names? I don't know if your statement here that you said are in effect, "Dupes," if I can translate what you're saying of the Communist Party because their climate agenda you say is being funded by them?

Mr. WALTER. I didn't talk about it being funded by them. And what I did—what I did explain for—I mean, there are very simple things. Massive U.S. Government subsidies for products that use Chinese technology obviously is enhancing the Chinese economy.

Senator WELCH. Has the U.S. Government through its tax code ever provided any incentives in tax preferences for the fossil fuel industry?

Mr. WALTER. Yes. A great deal.

Senator WELCH. And you don't have a problem with that?

Mr. WALTER. Well, I'm not an economist qualified to talk about the relative value of the subsidies but I don't think that it's remotely deniable that we currently subsidize all sorts of green technology in which China is leading and therefore helping the Chinese.

Senator WELCH. So, the fact that we Senator Durbin here has solar panels, does that make him a communist sympathizer?

Mr. WALTER. No, I don't think so. Any more than my driving to this hearing today makes me a mass murderer or an accessory to mass murder.

Senator WELCH. You know, this is the issue I have. We've got a planet that's melting. All right? That's my view. The oil industry doesn't agree with that. They think everything's fine. And we went from a policy where it was all of the above to essentially a policy that everything below is where we're going to get our energy.

And what I'm seeing in the arguments that you were making is you're trying to demean and disparage and discredit arguments by people who believe that we need a radically different policy. It does allow for the development of clean energy to reduce carbon emissions. That's what I'm hearing.

And then one of the tools is to vilify folks who have that point of view that they are dupes of the Communist Party that's trying to take us down. Thank you, Mr. Chairman. I yield back.

Chair CRUZ. Thank you. And I would note one of the reasons why the left and the Chinese Communist resort to litigation is because their ideas are incredibly unpopular when the American people vote on them. So for example, in the U.S. Senate, every Senate Democrat voted in favor of the California Waiver that would effectively ban the internal combustion engine in 18 States across the country.

Every Senate Democrat voted in favor of it. But you know what? The citizens aren't voting in favor of it. They're not campaigning. We don't see our Democrat colleagues saying, "We're going to ban the internal combustion engine." Even in bright blue States, even in Vermont and Rhode Island, the voters are not saying, "Take away the car out of my driveway."

And yet, Democrat office holders are trying to use government power to fight the Democrat wishes of their electorate. General



Kobach, let's talk about the courts. The Climate Judiciary Project backed by the Environmental Law Institute, Energy Foundation and private donors connected to plaintiff's law firms has trained over 2000 judges, many in key jurisdictions where these climate cases are pending.

Is it appropriate for sitting judges to receive climate science, "Education" from advocacy groups like the Environmental Law Institute, groups that are directly tied to the plaintiffs in active litigation?

Mr. KOBACH. No. Mr. Chairman, I do not believe it is any more than it would be appropriate for a group of justices to go on an extensive training conference and be trained in how to dispute or defend the fossil fuel industry. When you have a group of litigants in a pitch legal battle in approximately three—well, more than three dozen cases, if we're talking about more than just the ones brought by cities and counties. The judges are there to be neutral.

And the worst thing I fear going into any case on any issue is if I know that the judge has already dug in based on prior things the judge has done or said against me. So I don't think it's appropriate for litigants to be training the judges in essentially what their experts are going to say in the trial.

Mr. ARKUSH. Mr. Chairman, may I respond to this as well? Because—

Chair CRUZ. No. Because we've got limited time. If someone else wants to get into it. General Kobach, isn't it true that—actually, go ahead, Mr. Arkush.

Mr. ARKUSH. I just wanted to say that what Mr. Kobach is saying he opposes is exactly what's happening from the defense side as well. The Environmental Institute has multiple oil companies on its board, executives of oil companies, BP and Shell and it has Counsel representing them in court in important leadership positions.

Chair CRUZ. So, we may be breaking news here or are you on behalf of Public Citizen calling for The Environmental Law Institute to stop training judges and indoctrinating judges?

Mr. ARKUSH. What I'm saying is it doesn't make any sense to say that they're indoctrinating judges as some sort of leftist plot against the oil companies—

Chair CRUZ. Let's be clear. I'm calling for them to stop training judges because I think they are indoctrinating them. It's interesting you said that but you weren't willing to go to the natural next step of therefore it should stop. General—

Mr. ARKUSH. I don't know much about it but I do know that BP and Shell are on the board.

Chair CRUZ. Mr. Arkush, if you believed what you were saying, you would be willing to call for it to stop. You're not and that suggests you know damn well what it is. They're training the judges, and it's indoctrination, and you don't want it to stop because you want the judges to be biased and rule in favor of these crackpot theories. General Kobach, isn't it true—

Mr. ARKUSH. I disagree that Shell and BP are on the board of an organization that's indoctrinated and that is against them.

Chair CRUZ. Mr. Arkush, your time is done.

Mr. ARKUSH. Thank you.

Chair CRUZ. Isn't it true that these programs often hosted in conjunction with the Federal Judicial Center or the National Judicial College can obscure ethics disclosure requirements because they fall under judicial exemption categories?

Mr. KOBACH. Yes, Chairman, you're correct. There are definite ethical problems. And in addition to any the overarching sort of Federal model of ethics, you also have additional State ethical rules that may be violated as well. But at the end of the day, it's judicial neutrality that is the biggest ethical constraint on our entire Article III Courts and State Courts. And that is the biggest problem I see going into any case.

Chair CRUZ. It's also been reported that the Chief Justice of the Hawaii Supreme Court participated in these sessions at the same time that his court was reviewing one of these climate lawsuits. So active litigation and yet happily being indoctrinated by interested parties in an ex parte setting where the opposing Counsel had no opportunity to refute the indoctrination.

Mr. Walter, the Climate Judiciary Project tells judges that climate lawsuits are a, "Unique opportunity for accountability." Would you call that education or would you call that political indoctrination disguised as training?

Mr. WALTER. Accountability is the standard term used by political activists to try to say, "We want to hurt those folks that we're opposed to."

Chair CRUZ. Do you believe Congress should investigate whether these trainings are undermining the impartiality of the judiciary?

Mr. WALTER. Absolutely, Senator.

Chair CRUZ. Thank you. Senator Whitehouse.

Senator WHITEHOUSE. Well, the funny thing about this conversation is that time did not begin yesterday. And for years, public advocates have been objecting to fossil fuel funded special trips, trainings, exotic locales behind closed doors, indoctrination sessions of judges for like 20 years now.

This is a recurring phenomenon and now we're hearing outrage about that same phenomenon when it's not all fossil fuel funded, when it's a group that has fossil fuel executives and attorneys on its board. But somehow this is the big outrage. So yes, I don't think judges should be being indoctrinated behind closed doors by special interests. And I've been saying that for years.

But the experience of this is that the fossil fuel industry has been at it like hammer and tongs for decades. And now to suggest that a group that has fossil fuel folks on its board is, I mean, this is an epic effort in projection and false equivalency. And Mr. Arkush you wanted to say something a little further—one other thing. The people in America don't want to see a climate solution as a proposition is simply not true. We have done polling that I have pretty good confidence in that says penalties on polluting imports, like imports from China that are built with coal powered power electricity and have huge carbon footprints, putting a penalty on that higher footprint.

Because they're not meeting our standards. Twelve percent opposed, 74 percent support putting pollution limits on big corporations. You can pollute this much and then no more. Twelve percent oppose, 72 percent support putting a fee on big polluters to fix that

economic problem that I described. That polluting for free violates the fundamental law of market economics. That the harms of your product should be baked into its cost.

That fee, 10 percent of Americans opposed, 74 percent support. The problem with this issue isn't public support. The problem with this issue is fossil fuel influence in this building. And I contend that that is what today is all about. And I'll just leave it at that.

Chair CRUZ. Thank you, Senator Whitehouse. One final bit of questioning for you, Mr. Arkush. Define for this Committee what homicide means?

Mr. ARKUSH. Sure. So, homicide is a legal term that refers to—it's essentially a blanket term for any form of unlawful killing. And an unlawful killing is causing death with a culpable mental state, causing a death means substantially contributing to it or accelerating it. And a culpable mental state could be negligence knowledge, recklessness.

Chair CRUZ. So, you wrote an article in 2023 entitled, "Climate Homicide prosecuting Big Oil for Climate deaths." In that article, you argue that oil and gas executives could be prosecuted not just sued but criminally prosecuted for homicide, for murder based on climate change. Is that right?

Mr. ARKUSH. That's right. I mean, I would be careful with the wording because murder again is a technical term and definitely, we're not arguing that they could be prosecuted for first degree murder. That's killing with intent.

Chair CRUZ. But you want to put them in prison for homicide, lock them up, treat them as criminals, put them in, murderers get put, people who commit homicide get put in jails with violent criminals. And your position is this is a reasonable and rational thing that we should put the people leading the energy companies in America producing 8.5 million jobs, we should arrest them and throw them in jail. Is that correct?

Mr. ARKUSH. It could be the case that some executives should be prosecuted in that way, of course, if you can't put a corporation in jail. So, there are other remedies in that situation.

Chair CRUZ. But you can put human beings in jail and presumably you put the corporate officers in jail.

Mr. ARKUSH. Yes, you can.

Chairman CRUZ. You'd prosecute them for murder. So don't let there be any ambiguity. And by the way, Senator Whitehouse was really eager to make clear that you're the minority witness, you're the witness he wanted, he was eager to introduce you. I'm going to go on the record and say that is a moonbeam wacky theory that you want to prosecute people creating jobs and producing energy for murder. Let me ask you, Mr. Arkush, how did you get to the capital today?

Mr. ARKUSH. So, here's what I want to tell you—

Chair CRUZ. How did you get to the capital today?

Mr. ARKUSH. I took an Uber.

Chair CRUZ. You took an Uber?

Mr. ARKUSH. Yes.

Chair CRUZ. Now was that in an automobile?

Mr. ARKUSH. Yes.

Chair CRUZ. Did that automobile have gasoline in it?

Mr. ARKUSH. Yes. This is very, very cute. I see where this is going.

Chair CRUZ. So, I'm glad you think it's cute. Under your theory, you admitted you admitted carbon emissions——

Mr. ARKUSH. Yes.

Chair CRUZ [continuing]. Should you be arrested in this room right now and prosecuted for murder?

Mr. ARKUSH. No.

Chair CRUZ. Why?

Mr. ARKUSH. That's not what the law holds. So, there is a——

Chair CRUZ. So well, tell me why because you're willing to say the guy who sold you the gasoline should be prosecuted for murder. You are the one that benefited from it. Couldn't you have ridden a bicycle or maybe like some fairy dust to get here?

Mr. ARKUSH. The guy who sold the gas and 50 years ago knew that it was going to cause globally catastrophic damage that would cause problems for humanity so that——hold on.

Chair CRUZ. But you have exquisite knowledge of this. You are saying you are an expert. So on mens rea——

Mr. ARKUSH. I'm not done.

Chair CRUZ [continuing]. You have a level of culpability because you claim that the act of getting in that car was violence. It was murder, that you should be locked up. Why do you get to violate these principles in a way that you just want to lock up the person who sold you the gas but not the beneficiary of it?

Mr. ARKUSH. That's your claim, not mine. Because to be liable, there are a bunch of reasons but one of them is you have to substantially contribute to the harm to the death. And I am not——

Chair CRUZ. How many car rides is substantially? Is it 1, is it 2, is it 10? How many?

Mr. ARKUSH. I am not—a single individual couldn't possibly contribute enough. The point is——

Chair CRUZ. Well, what about if say you're a Democrat politician who present but——what about if you're a Democrat politician——

Mr. ARKUSH. Do you want me to answer this?

Chair CRUZ. What about if you're a Democrat politician who flies private jet?

Senator WHITEHOUSE. It would be helpful if you're asking the questions. Doesn't he get to answer?

Chair CRUZ. He gets to answer them in my time. Just like he gets to answer them in your time when you are asking them.

Mr. ARKUSH. It seems like I don't.

Chair CRUZ. So, what about democrat politicians who fly private planes all the time? People like John Kerry who say, "For someone like me, a private jet is the only reasonable way to travel." John Kerry has the climate footprint of a small town in Tennessee. Would you prosecute John Kerry for murder?

Mr. ARKUSH. So, depending on how you calculate it, U.S. fossil fuel company or the oil majors, private oil majors are responsible for around——

Chair CRUZ. So, my question was——

Mr. ARKUSH [continuing]. Half of global emission.

Chair CRUZ. My question was, would you prosecute John Kerry for murder?

Mr. ARKUSH. Obviously not. No.

Chair CRUZ. Okay. So, Democrat politicians are exempted?

Mr. ARKUSH. There is no individual who is——

Chair CRUZ. Democrat activists are exempted?

Mr. ARKUSH. I'm not going after people for carbon footprints. The whole thing is actually——

Chair CRUZ. Well, why not though? Under your principle, carbon is killing us. You claim it is homicide. By the way, this is a whack job theory, you teach in law school. If one of your law students wrote this on an exam, any law professor—General Kobach, you were a law professor for years. If I wrote it's homicide, lock them up. What grade would you give me and why?

Mr. KOBACH. Yes. It wouldn't be a good one. Part of the problem here is the same problem that the Baltimore judge in rejecting all of the eight claims brought by the city of Baltimore pointed out with regard to public nuisance theory. And that is, it's not just the company that took the oil out of the ground. The individual consumer made a choice to use it as well.

She dismissed all their claims, rejected their attempt to stretch public nuisance doctrine to cover "The results of fossil fuel usage and gas emissions by third parties located all over the world." You can't put the blame either in a homicide case or in a public nuisance case just on the company that extracted the oil from the ground because everybody's using it and we're all involved in it.

And that's why it doesn't fit homicide easily and it doesn't fit public nuisance easily either.

Mr. ARKUSH. With all due respect. I don't think that Mr. Kobach is familiar with the relevant law in this case. A defendant in a homicide case can't defend by saying somebody used my products exactly as I intended them to while I was lying to them about it——

Chair CRUZ. So, you're saying we should prosecute you for murder?

Mr. ARKUSH. No.

Chair CRUZ. Because you drove an automobile here?

Mr. ARKUSH. No. I'm saying——

Chair CRUZ. Well, you said you couldn't use a defense, the fact that someone else does it——

Mr. ARKUSH. I'm saying the——

Chair CRUZ. You contributed, you're a murderer—under your wacky theory, you're a murderer too.

Mr. ARKUSH. I'm not sure I should be trying to speak. Can I finish a sentence?

Chair CRUZ. For once we agree. Senator Whitehouse.

Senator WHITEHOUSE. Will you allow the witness to answer without interruption during my time?

Chair CRUZ. It's your time. You're welcome to——

Senator WHITEHOUSE. You just interrupted him during my time——

Chair CRUZ. You're welcome to sing. Now, he was actually—it was the end of my time. You're welcome to sing or you conduct poetry, an ambic pentamete. You can blow a kazoo, you can do whatever you wish.

Senator WHITEHOUSE. Go ahead and answer the question that you were prevented from answering.

Mr. ARKUSH. Yes, I'm a little lost now as to where we were. But my point was that a fossil fuel producer in a criminal trial would not be able to say—I mean, there, there's legal doctrine on this, right? You can say there's an intervening third party, intervening circumstances that disrupt the chain of causation. You cannot say that when the third party, their actions were completely foreseeable.

Like for example, a consumer using your product exactly as you intended, you also can't use it when you defrauded them into using your product exactly as you intended. So, with all due respect, the Baltimore company is wrong.

Senator WHITEHOUSE. That is the company can't use that defense?

Mr. ARKUSH. Sorry?

Senator WHITEHOUSE. The company can't use that defense when it is on the delivery end of the fraud?

Mr. ARKUSH. It's meritless in a criminal context anyway.

Senator WHITEHOUSE. Yes. And the tobacco case focused on key organizations, not everybody who smoked and gave secondhand smoke, lawyers know how to sort through this stuff. And I think that we really do have to take the harm that is being caused by these companies and protected behind the \$700 billion a year annual subsidy that Congress showers them with every year.

And that motivates them to be so influential and so intrusive into Congress. So involved in elections, spending so many millions of dollars in dark money and in direct money. And in the meantime, just to use the very simplest example of the articles I put into the record, here comes an insurance crisis that's already fully engaged in Florida, that is hitting southern Mississippi, southern Louisiana, southern Texas.

It's hitting all the coastal States as predicted by the chief economist of Freddie Mac. Not a green group, not a Chinese communist group, as predicted by that chief economist, as predicted by the chairman of the Federal Reserve, far from green, as predicted by the CEO of American AON, as predicted by the board of Allianz, the biggest insurance company on the planet.

You can make as much fun as you like of an article that Mr. Arkush wrote but that doesn't take away from the fundamental fact that the earth's natural systems are being badly degraded by fossil fuel and that the fossil fuel industry knew that this would happen. And that for years knowing that it would happen, they lied about it. They set up whole organizations to lie about it even more.

They fund an entire armada of front groups whose job is to lie about it. And I do believe that it's proper to hold a corporation accountable for that kind of misconduct. Mr. Arkush.

Mr. ARKUSH. There are two things I'd like to say. One, it does seem like we can all agree on one thing, which is that group spending money to influence other people's behavior can be problematic. And sometimes people don't do things for the right reasons. They do things because they're getting paid, right? And there is almost nobody in the world with more resources than the fossil fuel industry to be paying people to do their bidding.

And I think just as important to note that as Senator Whitehouse noted one of them alone, ExxonMobil last year, almost a billion dollars in profits a day, every day. That's more than twice the amount that was on that chart that you held up Mr. Chairman for all the environmental groups. So right.

ExxonMobil, twice that amount every single day. That's just one of the oil companies I'm very concerned about spending money on political influence. And it's a lot more on that side. Second, I just want to say my understanding of this theory about China is that—and tell me if I'm wrong. Is that China is ahead of the U.S. right now and in manufacturing, some aspects of renewable energy, right?

Solar panels, batteries. Ahead on critical minerals, right? And I guess the theory is, I guess therefore they want to stifle our fossil fuels so that we're dependent on them for their renewable energy. I don't know why they'd want to stifle fossil fuels when China is like a huge buyer of U.S. oil and gas. Some of it they burn, some of it they flip. They flip a lot of the oil and gas at a profit. If we are losing a competition with China on the technologies of tomorrow, we should be investing in those technologies and funding them, right?

Imagine in the late 50's and early 60's when we were worried we were losing the space race with the Soviet Union. Imagine if instead of saying in 1962, Kennedy saying, "We're going to go to the moon by the end of this decade," he said, "Do you know what? We're going to defund all of aeronautics and stay on the ground." Is that the way to make America strong and great? I don't think so.

And I wish that you would all join the people who are trying to make America strong and great today and tomorrow by funding the industries and the energy sources of tomorrow that are cleaner, safer, and cheaper like renewables.

Chair CRUZ. Thank you to each of the witnesses. A final question, Mr. Walter. You're an expert on special interests, when it comes to dark money, political funding. Where is more of it found on the left or on the right? What are the biggest funders?

Mr. WALTER. It's considerably more on the left depending on how you want to define dark money. Oddly enough, people who use the term a lot tend not to define it with any legal precision. But there is the largest of any such entity left or right again, is the vast multi-billion-dollar network run by Arabella advisors with hundreds of millions of dollars from the foreign billionaire Mr. Wyss.

Chair CRUZ. And oddly enough, my Democrat colleagues never seem concerned by that massive money on the left, which is considerably larger than the money that is supporting Republicans.

Senator WHITEHOUSE. Again, since you're speaking about me, that's also not true. I am the actual lead sponsor of an Act that would end dark money and it wouldn't end it just on your side. It would end it for everyone. Everyone would know who is funding people's campaigns. And every Democrat votes for that bill to get rid of dark money. And every Republican votes against that bill to protect dark money, largely because the fossil fuel industry's dark money is the lifeblood of the Republican political operation and you don't want to see that exposed.

Chair CRUZ. So that happens to be factually false. But I'll point out, every year I've been in the Senate, I've introduced legislation called the Super PAC Elimination Act that does two very simple things.

One, it allows unlimited individual contributions directly to Federal campaigns, as is the case in State law and many States, including my home State of Texas. And two, it requires immediate 24-hour disclosure of any contributions. As a practical matter, Super PACs would go away. And every time we've tried to vote on that, the Democrats uniformly oppose it.

I want to thank each of the witnesses for being here. This concludes our hearing. Written questions can be submitted for the record until Wednesday, July 2 at 5 p.m. and I will ask the witnesses to answer and return the questions to the Committee by July 16 at 5 p.m. This hearing is adjourned.

[Whereupon, at 4:17 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]





**Written Testimony of David Arkush**

**Director, Public Citizen's Climate Program**

**Before the Subcommittee on Federal Courts, Oversight, Agency Action and Federal  
Rights of the Senate Judiciary Committee**

**Enter the Dragon—China and the Left's Lawfare Against American Energy  
Dominance**

**June 25, 2025**

**Introduction**

Thank you for the opportunity to provide testimony on behalf of Public Citizen, a national public interest advocacy organization with more than 500,000 members and supporters.

States and local governments have ample reason to hold Big Oil accountable in court for costs related to climate change. These elected representatives are pursuing a basic principle of fairness: If you make a mess, you should clean it up. This rule—that the person who causes damage should pay for it—is not just something we teach toddlers. It's a principle as old as law itself, likely present in every legal system since the Code of Hammurabi was drafted nearly 4,000 years ago.<sup>1</sup>

Now some are arguing that the oil industry—one of the most powerful and most harmful actors in human history—should get a special exemption. It should not.

---

<sup>1</sup> See, e.g., CODE OF HAMMURABI ("233. If a builder build a house for some one, even though he has not yet completed it: if then the walls seem toppling, the builder must make the walls solid from his own means."); *id.* ("263. If he kill the cattle or sheep that were given to him, he shall compensate the owner with cattle for cattle and sheep for sheep."); <https://avalon.law.yale.edu/ancient/hamframe.asp>.

Big Oil has made trillions of dollars in profits over the past several decades.<sup>2</sup> It has also killed millions of people and caused trillions of dollars in damage.<sup>3</sup> The oil industry knew these harms were going to happen, and it caused them anyway. Worse, it lied about them so that it could keep making profits from its devastatingly harmful conduct for as long as possible.

The costs of Big Oil's malfeasance are increasingly falling on ordinary Americans and state and local governments. In the past year alone, climate-related harms cost Americans nearly \$1 trillion—more than 3% of our gross domestic product, amounting to a massive “stealth tariff on consumer spending.”<sup>4</sup> Should taxpayers be saddled with these costs? No. The companies that caused the harm should pay. That is what state and local governments are trying to accomplish by suing Big Oil.

## I. What Fossil Fuel Companies Knew

The oil industry has known for decades that its business model would cause catastrophic harm—in the words of a 1980 American Petroleum Institute memo, “globally catastrophic” harm.<sup>5</sup> The industry recognized there was “scientific consensus” on the fundamentals of climate science in the 1970s and 1980s.<sup>6</sup>

<sup>2</sup> See, e.g., Matthew Taylor & Jillian Ambrose, *Revealed: Big Oil's Profits Since 1990 Total Nearly \$2tn*, *The Guardian* (Feb. 12, 2020), <https://www.theguardian.com/business/2020/feb/12/revealed-big-oil-profits-since-1990-total-nearly-2tn-bp-shell-chevron-exxon>.

<sup>3</sup> See *infra* section \_\_\_\_.

<sup>4</sup> Eric Rosten, *US Spending on Climate Damage Nears \$1 Trillion Per Year*, *BLOOMBERG* (June 17, 2025), <https://www.bloomberg.com/news/articles/2025-06-17/us-spending-on-climate-damage-nears-1-trillion-per-year>.

<sup>5</sup> Jimmie Nelson, *The CO2 Problem: Addressing Research Agenda Development*, American Petroleum Institute, Climate Investigations Center, 13 (Mar. 18, 1980), <https://www.industrydocuments.ucsf.edu/docs/gffl0228>.

<sup>6</sup> See, e.g., J.F. Black, *The Greenhouse Effect*, Exxon Research and Engineering Company, 1 (June 6, 1978) (“[T]here is general scientific agreement that the most likely manner in which mankind is influencing the global climate is through carbon dioxide release from the burning of fossil fuels.”), <https://insideclimatenews.org/documents/james-black-1977-presentation>; *id.* (“[C]urrent scientific opinion overwhelmingly favors attributing atmospheric carbon dioxide increase to fossil fuel combustion.”); Letter from Roger Cohen to A.M. Natkin, 1 (Sep. 2, 1982) (“[O]ver the past several years a clear scientific consensus has emerged regarding the expected climatic effects of increased atmospheric CO<sub>2</sub>.”), <https://insideclimatenews.org/wp-content/uploads/2021/02/Consensus>; *id.* (stating that there was “unanimous agreement in the scientific community that a temperature increase of this magnitude would bring about significant changes in the earth’s climate” and that “[t]he time required for doubling of atmospheric CO<sub>2</sub> depends on future world consumption of fossil fuels.”); see also Joseph M. Carlson, *The Greenhouse Effect*, ExxonMobil (Aug. 3, 1988), <http://www.climatefiles.com/exxonmobil/566>.

Other industry documents from decades ago said greenhouse gas pollution from burning fossil fuels would do “great irreversible harm to our planet.”<sup>7</sup> They predicted that climate change from burning fossil fuels would have “serious consequences for man’s comfort and survival,”<sup>8</sup> causing “suffering and death due to thermal extremes.”<sup>9</sup> They predicted it would create

more violent weather—more storms, more droughts, more deluges . . .  
 . . . Agricultural patterns would be most dramatically changed.  
 Something as simple as a moderate change in rainfall pattern disrupts  
 ecosystems, and many species of trees, plants, animals and insects  
 would not be able to move and adapt.<sup>10</sup>

They projected devastating effects on immigration due to changes in the habitability of localities that are home to billions of people:

The potential refugee problem . . . could be unprecedented. Africans would push into Europe, Chinese into the Soviet Union [this was 1989], Latins into the United States, Indonesians into Australia. Boundaries would count for little—overwhelmed by the numbers. Conflicts would abound. Civilization could prove a fragile thing.<sup>11</sup>

## II. What Fossil Fuel Companies Did

Rather than cease engaging in such dangerous activity, and rather than continue doing it while alerting the public—indeed, *rather than merely keep quiet about it*—fossil fuel companies chose to pursue an aggressive disinformation campaign of lying about climate science to deceive the public and policymakers.

Starting in the late 1980s, the oil industry began developing and orchestrating a multi-decade, coordinated campaign to, in its words, “reposition global warming as

---

<sup>7</sup> Memo from M.B. Glaser to Exxon Management, *CO2 Greenhouse Effect* (Nov. 12, 1982), <https://www.climatefiles.com/exxonmobil/1982-memo-to-exxon-management-about-co2-greenhouse-effect/>.

<sup>8</sup> Alan Oppenheis & William I. Donn, *Climate Models and CO2 Warming*, LAMONT-DOHERTY GEOPHYSICAL OBSERVATORY, COLUMBIA UNIVERSITY, 4–5 (Mar. 16, 1982).

<sup>9</sup> Presentation by D.J. Devlin to Exxon Management, *Purported Impact of Climate Change on Human Health* (1996), <https://www.climatefiles.com/exxonmobil/1996-purported-impact-climate-change-human-health/>.

<sup>10</sup> Shell Confidential Group Planning, *Scenarios 1989–2010, Challenge and Response*, Shell, 36 (Oct. 1989), <https://www.documentcloud.org/documents/23735737-1989-oct-confidential-shell-group-planning-scenarios-1989-2010-challenge-and-response-disc-climate-refugees-and-shift-to-non-fossil-fuels>.

<sup>11</sup> *Id.*

theory (not fact),” all for the purpose of maintaining or increasing fossil fuel sales, market share, and profits. For example, in August 1988, Exxon developed a memo laying out “The Exxon Position” on climate change. That “position” was to “[e]mphasize the uncertainty in scientific conclusions” in order to “[r]esist” public discussion of climate change, as it could lead to “development of nonfossil fuel resources.”<sup>12</sup>

Over the ensuing years, the industry engaged in a range of deceptive strategies, which it laid out clearly in 1998 document. That year, a group of twelve people, including representatives from ExxonMobil, Chevron, and other fossil fuel-related groups, met at API headquarters and drafted the Global Climate Science Communications Action Plan, a document that accurately describes exactly the fraud conspiracy the industry executed. The document specified that their scheme was to get both “average citizens” and the media to recognize that there was not a scientific consensus on climate change—which, according to their own internal assessments was a fraudulent claim—and then to make this fraudulent claim a new “conventional wisdom.”<sup>13</sup>

The industry chose this strategy because its polling showed that introducing the fraudulent specter of scientific doubt was the most effective way to make Americans oppose climate action.<sup>14</sup> The core of the Action Plan was a scheme to communicate the fossil fuel industry’s claims of denial and uncertainty to the media, the public, government officials, and teachers and students. That’s just what these companies have been doing, using the following strategies:

1. Publishing false and deceptive statements and advertisements related to climate change.
2. Identifying, “educating,” and financially rewarding scientists to generate research results, present papers, plan and attend conferences, and act as spokespersons for efforts to defraud the public into doubting the clear scientific consensus on climate change.
3. Targeting, harassing, and attempting to discredit activists engaged in researching and communicating the realities of climate change.

---

<sup>12</sup> Joseph M. Carlson, *The Greenhouse Effect*, ExxonMobil (Aug. 3, 1988), <http://www.climatefiles.com/exxonmobil/566>.

<sup>13</sup> See Email from Joe Walker to Global Climate Science Team, Global Climate Science Communications Action Plan (Apr. 3, 1998), <https://insideclimatenews.org/wp-content/uploads/2015/12/Global-Climate-Science-Communications-Plan-1998.pdf>

<sup>14</sup> *Climate Deception Dossier #5: Coal’s ‘Information Council on the Environment’ Sham*, Union of Concerned Scientists, [https://www.ucsusa.org/sites/default/files/attach/2015/07/Climate-Deception-Dossier-5\\_ICE.pdf](https://www.ucsusa.org/sites/default/files/attach/2015/07/Climate-Deception-Dossier-5_ICE.pdf).

4. Engaging in fraudulent campaigns to frame natural gas as a climate solution.
5. Engaging in fraudulent “greenwashing” efforts designed to deceive consumers and the public by falsely promoting their products and brands as clean and climate-friendly.<sup>15</sup>

These strategies are already the basis for a civil racketeering suit filed by 37 municipalities in Puerto Rico against the fossil fuel industry. And they are strikingly similar to the Big Tobacco racket that was prosecuted in *United States v. Philip Morris*, in which a group of cigarette companies were successfully sued for racketeering for their scheme to distort and deny the scientific connection between their tobacco products and lung cancer. Indeed, the lead counsel in *United States v. Philip Morris* has argued that fossil fuel actors’ climate racketeering should be similarly investigated and possibly prosecuted.<sup>16</sup>

Perhaps even more remarkable than the campaign of deception, it is clear that the industry believed the climate science itself. While oil companies were lying to the public about purported scientific uncertainty, they were using the same science to guide their business operations. For example, in the 1990s, they raised the height of offshore oil platforms to account for the sea-level rise they predicted.<sup>17</sup> They did this while paying for ads in the *New York Times* and *Washington Post* that said things like, “Let’s face it: The science of climate change is too uncertain to mandate a plan of action that could plunge economies into turmoil.”<sup>18</sup>

### III. The Costs of Fossil Fuel Companies’ Malfeasance

It is important not to lose sight of the human costs of climate change. Air pollution caused primarily by burning fossil fuels is one of the leading killers globally, causing an estimated one in five deaths worldwide.<sup>19</sup> Climate change kills people in a breathtakingly broad number of ways: dangerous heat, more intense storms and

<sup>15</sup> See Email from Joe Walker to Global Climate Science Team, Global Climate Science Communications Action Plan (Apr. 3, 1998), <https://insideclimatenews.org/wp-content/uploads/2015/12/Global-Climate-Science-Communications-Plan-1998.pdf>.

<sup>16</sup> See, e.g., DENIAL, DISINFORMATION, AND DOUBLESPEAK: BIG OIL’S EVOLVING EFFORTS TO AVOID ACCOUNTABILITY FOR CLIMATE CHANGE, BEFORE THE S. COMM. ON BUDGET (May 1, 2025) (testimony of Sharon Y. Eubanks, Former Director, U.S. Department of Justice Tobacco Litigation Team), <https://www.budget.senate.gov/download/ms-sharon-eubanks-testimony-senate-budget-committee>.

<sup>17</sup> Amy Lieberman & Susanne Rust, *Big Oil Braced for Global Warming While It Fought Regulations*, L.A. TIMES (Dec. 31, 2015), <http://graphics.latimes.com/oil-operations/>.

<sup>18</sup> *Id.*

<sup>19</sup> Karn Vohra et al., *Global Mortality from Outdoor Fine Particle Pollution Generated by Fossil Fuel Combustion: Results from GEOS-Chem*, 195 *Environmental Research* 110,754 (2021), <https://www.sciencedirect.com/science/article/abs/pii/S0013935121000487>.



flooding, increased disease and food and water insecurity, and even increased violent conflict.<sup>20</sup>

This testimony, however, will focus on economic costs: rising insurance premiums and insurance withdrawals, harmful impacts on housing markets, and costs to state and local governments.

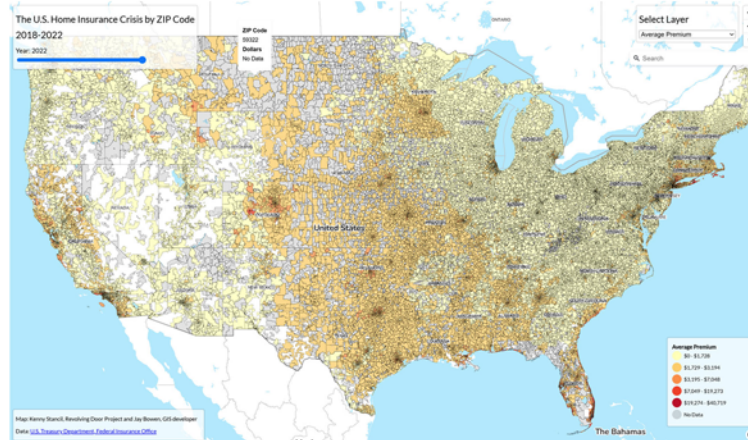
According to Bloomberg Intelligence analysis, insurance premiums have doubled in the United States since 2017.<sup>21</sup> While the sudden loss of insurers from states like Florida, Louisiana, and California has captured national headlines, newly released federal data shows insurers have been quietly dropping policies in climate-vulnerable zip codes across the country for years, with at least 1.9 million policies dropped since 2018.<sup>22</sup> Figures 1 and 2 below show 2022 insurance premiums by ZIP code and 2023 insurance nonrenewals by county.

<sup>20</sup> See, e.g., Katrin Burkart et al., Projecting Global Mortality Due to Non-Optimal Temperature from 2020 to 2100: a Global Burden of Disease Forecasting Study (Nov. 18, 2020) (on file with Social Science Research Network) (this is a preprint published on SSRN in coordination with The Lancet); R. Daniel Bressler et al., *Estimates of Country Level Temperature-Related Mortality Damage Functions*, 11 SCI. REP. 20282 (2021) (providing a central estimate of a 4.2% increase in global mortality from temperature change alone by 2100 under RCP 8.5 assumptions); Whanhee Lee et al., *Projections of Excess Mortality Related to Diurnal Temperature Range Under Climate Change Scenarios: A Multi-Country Modeling Study*, 4 LANCET PLANET HEALTH 512, 518 Figure 2 (2020) (reflecting a projection that excess mortality from higher daytime temperatures in the United States will increase from 3.0% in the period 2010–2019 to roughly 5.5% by 2100 under RCP 8.5 assumptions); Drew Shindell et al., *The Effects of Heat Exposure on Human Mortality Throughout the United States*, *GeoHealth*, Mar. 26, 2020, at 1 (estimating 12,000 premature deaths per year in the United States currently caused by climate change related heat, rising by 97,000 heat-related deaths every year by 2100 under RCP 8.5 assumptions and 36,000 per year under an RCP 4.5 scenario); Luke Kemp et al., *Climate Endgame: Exploring Catastrophic Climate Change Scenarios*, PROCEEDINGS NAT'L ACAD. SCI., Aug. 1, 2022, at 6 (“There are many potential contributors to climate-induced morbidity and mortality, but the ‘four horsemen’ of the climate change end game are likely to be famine and undernutrition, extreme weather events, conflict, and vector-borne diseases.”).

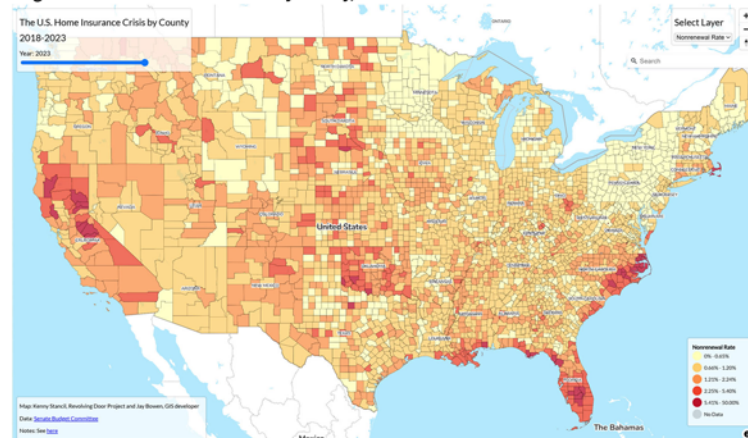
<sup>21</sup> Eric Rosten, *US Spending on Climate Damage Nears \$1 Trillion Per Year*, BLOOMBERG (June 17, 2025), <https://www.bloomberg.com/news/articles/2025-06-17/us-spending-on-climate-damage-nears-1-trillion-per-year>. See also *Overburdened: The Dramatic Increase in Homeowners Insurance Premiums and Its Impacts on American Homeowners*, CONSUMER FEDERATION OF AMERICA (Apr. 1, 2025) (reporting that from 2021 to 2024, insurance premiums increased in 95% of US ZIP codes, including a rise of more than 30% in one-third, and that insurance premiums rose twice as fast as inflation), <https://consumerfed.org/overburdened/>.

<sup>22</sup> See Christopher Flavelle, *Insurers Are Deserting Homeowners as Climate Shocks Worsen*, N.Y. TIMES (Dec. 18, 2024), <https://www.nytimes.com/interactive/2024/12/18/climate/insurance-non-renewal-climate-crisis.html>; Sam Karlin, *Louisiana Welcomed Small Insurers Looking to Make Money Fast. Then the House of Cards Collapsed*, NOLA.COM, (Jan. 11, 2024), [https://www.nola.com/news/business/11-of-12-failed-louisiana-insurers-paid-money-to-affiliates/article\\_a24022e2-af37-11ee-b734-ff759f54bb34.html](https://www.nola.com/news/business/11-of-12-failed-louisiana-insurers-paid-money-to-affiliates/article_a24022e2-af37-11ee-b734-ff759f54bb34.html); Jordan Valinsky, *Farmers Insurance Pulls out of Florida, Affecting 100,000 Policyholders*, CNN BUSINESS (July 12, 2023), <https://www.cnn.com/2023/07/12/business/farmers-insurance-florida>; Michael R. Blood, *California*

**Figure 1: Insurance premiums by ZIP code, 2022.**



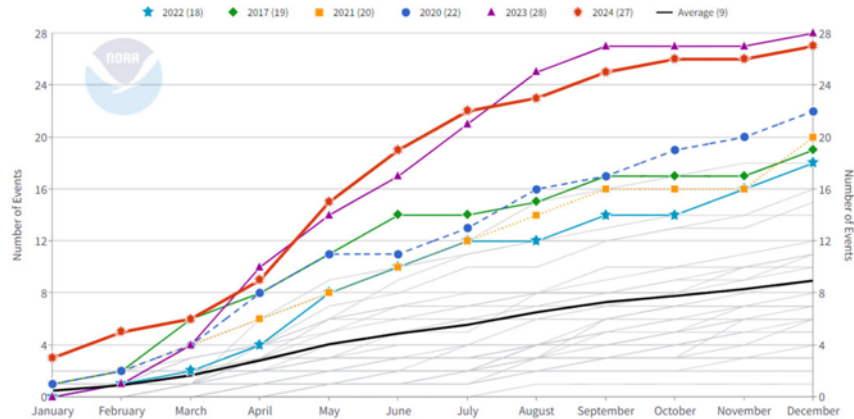
**Figure 2: Insurance nonrenewals by county, 2023.**



*Insurance Market Rattled by Withdrawal of Major Companies*, AP NEWS (June 5, 2023), <https://apnews.com/article/california-wildfire-insurance-e31be0ed7eedcdce096a5b582c1768f>; STAFF OF S. BUDGET COMM., 118TH CONG., NEXT TO FALL: THE CLIMATE-DRIVEN INSURANCE CRISIS IS HERE—AND GETTING WORSE (Dec. 2024), [https://www.budget.senate.gov/imo/media/doc/next\\_to\\_fall\\_the\\_climate-driven\\_insurance\\_crisis\\_is\\_here\\_and\\_getting\\_worse.pdf](https://www.budget.senate.gov/imo/media/doc/next_to_fall_the_climate-driven_insurance_crisis_is_here_and_getting_worse.pdf).

The cause of the turmoil in insurance markets is clear: a sharp increase in climate-driven harms. The year 2024 was the 14th consecutive year during which at least 10 separate climate-related disasters caused at least \$1 billion in damage.<sup>23</sup> Figure 3 below illustrates the trend of increased billion-dollar disasters.

Figure 3: 1980–2024 United States Billion-Dollar Disasters (CPI-Adjusted)



Rising insurance costs are being driven not just by the highest-profile events, like destructive wildfires and hurricanes, but also from what otherwise might be ordinary storms. Indeed, wind and hailstorms, common in the Upper Midwest, are second only to hurricanes in costs.<sup>24</sup> For that reason, insurance costs are rising steeply in the Midwest, not just in coastal areas or those prone to wildfires.<sup>25</sup>

While insurance costs are skyrocketing, an increasing proportion of losses are uninsured, leaving households and governments to bear costs for which they are not prepared. In 2022, only an estimated 60% of climate-related losses were covered by

<sup>23</sup> Adam B. Smith, *2024: An Active Year of U.S. Billion-dollar Weather and Climate Disasters*, National Oceanic and Atmospheric Administration (2025), <https://www.climate.gov/news-features/blogs/beyond-data/2024-active-year-us-billion-dollar-weather-and-climate-disasters>.

<sup>24</sup> Tu-Uyen Tran, *Homeowners Insurance Costs Are Growing Fast But Coverage Is Shrinking*, Federal Reserve Bank of Minneapolis (Aug. 28, 2024), <https://www.minneapolisfed.org/article/2024/homeowners-insurance-costs-are-growing-fast-but-coverage-is-shrinking>.

<sup>25</sup> Michael Copley, *Insurance Costs Are Soaring Around Tornado Alley. Hail Is the Big Problem.*, NPR (May 23, 2025), <https://www.npr.org/2025/05/23/nx-s1-5407522/insurance-tornadoes-hail-midwest>.



insurance.<sup>26</sup> This “protection gap” will have major impacts on household finances and housing affordability, with broader harmful effects on local and regional economies, and potentially on the stability of the financial system.<sup>27</sup> Federal Reserve Chair Jerome Powell recently told a Senate committee that in “10 or 15 years there are going to be regions of the country where you can’t get a mortgage. There won’t be ATMs. You know, the banks won’t have branches and things like that.”<sup>28</sup> This is a five-alarm fire for the entire nation’s economy and financial system.

At present, we are sleepwalking toward this disaster, with ordinary Americans and state and local governments bearing most of the costs.

Between 2011 and 2024, 99.5% of congressional districts experienced at least one federally declared major disaster due to extreme weather, affecting communities across political, urban-rural, and socioeconomic lines. These events, fueled by climate change, cost taxpayers \$117.9 billion in federal relief.<sup>29</sup>

Until 2016, the federal government covered up to one-third of climate-related disaster costs, for both prevention and recovery, but that proportion has now fallen to just 2%.<sup>30</sup> These costs do not disappear. They are borne instead by state and local governments—and American families, both directly and through taxes they pay.

Consumer Reports estimates that an American child born in 2024 can expect to pay at least \$500,000 and possibly as much as \$1,000,000 in climate costs over their lifetime due to a combination of lost income and higher expenses.<sup>31</sup> While Americans struggle to shoulder these additional burdens, their assets will face steep declines in value. Analysts at First Street project that climate change will erase \$1.47 trillion in property value over the next 30 years.<sup>32</sup>

---

<sup>26</sup> Remarks by Secretary of the Treasury Janet L. Yellen at Federal Advisory Committee on Insurance Meeting (Mar. 29, 2023), <https://home.treasury.gov/news/press-releases/fy1375>.

<sup>27</sup> See *id.*

<sup>28</sup> Michael Martin, *Will It Become Impossible to Get a Mortgage in High-Risk Areas in a Decade?* NPR (Feb. 18 2025) <https://www.npr.org/2025/02/18/nx-s1-5294490/what-is-happening-to-the-availability-of-mortgage-insurance-in-disaster-areas>.

<sup>29</sup> Rebuild by Design, *Atlas of Accountability (2011–2024)*, <https://rebuildbydesign.org/atlas-of-disaster/>.

<sup>30</sup> Eric Rosten, *US Spending on Climate Damage Nears \$1 Trillion Per Year*, BLOOMBERG (June 17, 2025), <https://www.bloomberg.com/news/articles/2025-06-17/us-spending-on-climate-damage-nears-1-trillion-per-year>.

<sup>31</sup> Consumer Reports & ICF Incorporated, LLC, *Cost of Climate Change to an American Born in 2024* (Feb. 23, 2024), <https://advocacy.consumerreports.org/wp-content/uploads/2024/04/ICF-CR-Cost-of-Climate-Change-Study.pdf>.

<sup>32</sup> First Street, *Property Prices in Peril* (Feb. 3, 2025), <https://firststreet.org/research-library/property-prices-in-peril>.

The ability of state and local governments to cover rising costs due to climate change will increasingly be strained. Municipal bond markets appear not to have priced in much climate-related risk to date. When they do, governments will see much higher costs of borrowing, at the same time as their expenses are rising.<sup>33</sup> This problem will affect not just state and municipal governments, but school districts, transit authorities, and public utilities. After the devastating Los Angeles fires in January 2025, S&P Global Ratings downgraded the credit rating of the Los Angeles power and water utility, the nation's largest utility, due increased frequency and severity of wildfires, igniting fears that the \$4 trillion bond market may increasingly price in climate risk and compound the financial strain on municipal bond issuers.<sup>34</sup>

Disaster recovery is only part of the picture. Costs to prepare in advance are also extraordinary. Boston has estimated the cost of building a Netherlands- or Thames-river-style harbor barrier at \$11.8 billion.<sup>35</sup> New York City has considered a \$119 billion barrier to protect it from future storms like Hurricane Sandy.<sup>36</sup>

South Carolina, a state with an annual budget of just \$14.5 billion,<sup>37</sup> will need to pay a projected \$20.1 billion to defend businesses, homes, and roads against chronic flooding by 2040 under a moderate sea-level rise scenario.<sup>38</sup> The top ten states facing these costs include five represented by members of this Subcommittee. Ranked by the highest costs, those states are Louisiana (#2), North Carolina(#3), California (#8), South Carolina (#9), and Texas (#10).<sup>39</sup> These costs are just to protect coastal communities from seal-level rise, not for other climate-related harms.

---

<sup>33</sup> See Billy Nauman, *Municipal Bond Issuers Face Steeper Borrowing Costs from Climate Change*, FINANCIAL TIMES (Jan. 7, 2020), <https://www.ft.com/content/6794c3d2-1d7d-11ea-9186-7348c2f183af>; Center for American Progress, *Climate Change and Municipal Finance*, May 6, 2020, <https://www.americanprogress.org/article/climate-change-municipal-finance/>.

<sup>34</sup> Thomas Frank, *\$4T Municipal Bond Market Wakes Up to Climate Risk. (With Help from Trump.)*, E&E News (Feb. 25, 2025), <https://www.eenews.net/articles/4t-municipal-bond-market-wakes-up-to-climate-risk-with-help-from-trump/>.

<sup>35</sup> Steven Mufson, *Boston Harbor Brings Ashore a New Enemy: Rising Seas*, WASH. POST (Feb. 19, 2020), <https://www.washingtonpost.com/climate-solutions/2020/02/19/boston-prepares-rising-seas-climate-change/>.

<sup>36</sup> *Id.*

<sup>37</sup> Jeffrey Collins, *South Carolina's Budget Passes with a Big Raise in Lawmaker Pay*, AP NEWS (May 28, 2025), <https://apnews.com/article/pay-raise-legislators-south-carolina-general-assembly-92c685410e6be35f8f802959bd6dd117>.

<sup>38</sup> CENTER FOR CLIMATE INTEGRITY & RESILIENT ANALYTICS, *HIGH TIDE TAX: THE PRICE TO PROTECT COASTAL COMMUNITIES FROM RISING SEAS* (June 2019), [https://www.climatecosts2040.org/files/ClimateCosts2040\\_Report.pdf](https://www.climatecosts2040.org/files/ClimateCosts2040_Report.pdf)

<sup>39</sup> Florida is #1. *See id.*

Many Texans have desired since 2008 to build an “Ike Dike” to protect the Houston and Galveston Bay areas from increasingly frequent and devastating hurricanes, but the proposal has foundered due to a projected cost of \$57 billion.<sup>40</sup> Ironically, the project would protect a major hub of the oil and petrochemical industry.<sup>41</sup> Although that industry created the very risk to be addressed and would be the most concentrated financial beneficiary of a solution—and although it has the cash to afford the project without flinching—it does not appear to have offered any contributions.<sup>42</sup> Instead, it appears content assume that the more than seven million human beings in the region who are concerned for their lives, property, and economy, or taxpayers across the country, will eventually pay the costs themselves. Taxpayers and state and local governments have struggled for nearly two decades to figure out how to fund the project without finding an answer.

### Conclusion

These are the reasons why state and local governments are suing Big Oil: to make it pay for a fraction of the colossal, budget-busting costs it has chosen to impose on them and their citizens, while profiting lavishly and lying about the harm it was causing.

---

<sup>40</sup> Kyle McClenagan, *Texas Governor Signs Bill to Create ‘Ike Dike’ Funding Account*, HOUSTON PUBLIC MEDIA (May 28, 2025), <https://www.houstonpublicmedia.org/articles/infrastructure/2025/05/28/522457/state-legislature-passes-law-to-create-ike-dike-funding-account/>; Erin Douglas & Emily Foxhall, *Texas “Ike Dike” Coastal Barrier Project Could Cost \$57 Billion with Inflation, Army Corps Says*, TEXAS TRIBUNE (Sept. 28, 2023), <https://www.texastribune.org/2023/09/28/texas-ike-dike-coastal-barrier-army-corps/>.  
<sup>41</sup> Shelby Webb, *Houston Is One Hurricane Away from an Oil and Gas Disaster*, E&E NEWS (June 3, 2025), <https://www.eenews.net/articles/houston-is-one-hurricane-away-from-an-oil-and-gas-disaster/>.  
<sup>42</sup> Evan Mintz, *Build the Ike Dike!*, TEXAS MONTHLY (Oct. 2020), <https://www.texasmonthly.com/news-politics/build-ike-dike/>.

**Testimony of Kansas Attorney General Kris Kobach**  
**Before the Senate Subcommittee on Federal Courts, Oversight, Agency**  
**Action, and Federal Rights**  
**regarding**  
**“Enter the Dragon—Chinese Lawfare Against U.S. Energy Dominance”**  
**June 24, 2025**

Chairman, Ranking Member, and distinguished Members of the Subcommittee, thank you for the opportunity to testify today about environmental lawfare, which has received what appears to be significant support from the Chinese Communist Party (CCP). As President Trump noted in recent executive orders, environmental lawfare poses a growing challenge for American industry, because it drives up energy costs. It also weakens our national security and places us at a strategic disadvantage with respect to our adversaries in China.

I serve as the Attorney General of Kansas, and in that capacity, I have represented the State of Kansas in multiple legal battles related to climate issues. Because my experience is greatest in the litigation itself, rather than on the connections to the Chinese Communist Party (CCP), I will focus my remarks on those legal conflicts and the issues presented. But it is evident that China’s asymmetric warfare against the United States extends to our nation’s courtrooms and state legislatures. The CCP plainly has a strategy of driving the United States away from domestic energy sources and increasing U.S. dependence on sources that rely on a Chinese supply of solar panels, electric vehicle batteries, and other technologies.

**Past Patterns of Environmental Litigation**

Environmental lawfare typically involves the strategic use of litigation to advance ideological environmental objectives. This is nothing new. In the past we have typically seen three types of lawsuits.

First, for decades, environmental advocacy groups, often financially backed by various wealthy individuals and foundations, have attempted to stop government projects on environmental grounds. These lawsuits often fail by the time the case hits the relevant court of appeals. But they also succeed in delaying

those projects for years. In recent decades, Congress has addressed this problem by inserting provisions in the relevant statutes exempting the projects from NEPA claims.

Second and more frequently, instead of targeting the federal government, environmental litigation would target specific industries, particularly the energy sector. This litigation, while sometimes based on valid legal claims, in most instances failed in the courtroom but nonetheless increased costs for consumers and taxpayers.

And third, we have also seen cases in the environmental sphere brought by states against the federal government in instances where the states claim relevant federal agency has overstepped its statutory authority or violated the U.S. Constitution. Those suits often involve challenges to environmental regulations. The most noteworthy recent example of this is *West Virginia v. EPA*, 597 U.S. 697 (2022), a case in which the State of Kansas participated as a co-plaintiff. In that case, the states sued to stop the EPA's Clean Power Plan regulation, which claimed the authority to regulate existing power plants in manner that would force them to switch methods of power generation in order to reduce carbon dioxide emissions. The Supreme Court ruled in the States' favor, holding that the major questions doctrine forbade the EPA from exercising such sweeping authority without express authorization from Congress, which had not been given.

### **The First New Threat: States Imposing Extraterritorial Burdens**

In the last few years, we have seen new forms of environmental litigation. The first has been prompted by state legislatures or state regulatory bodies attempting to place themselves in the shoes of the federal government adopting draconian environmental standards. These laws are extraterritorial in scope—regulating conduct and industries far beyond their borders. They have been enacted both during the Biden Administration and the current Trump Administration. The principal way to stop these actions is for other states or the federal government to sue.

#### **A. *Nebraska v. Cliff*: Regulatory Overreach in Trucking**

In 2023, the California Air Resources Board (CARB) promulgated California's Advanced Clean Fleet regulation, which attempts to ban internal-combustion engines in medium- and heavy-duty trucks. The regulation mandates a transition to zero-emission electric trucks by 2035 for most medium-duty vehicles

and 2042 for all trucks operating within the state. But most fleets would have to start meeting percentage of electric vehicle targets in 2025 and 2027.

The CARB Advanced Clean Fleet regulation masquerades as a rule for in-state conduct. But it has a massive national impact because so many companies must travel through California to reach Pacific shipping ports, and because of California's large number of consumers. *It would effectively regulate trucks in all 50 states, 95 percent of which are powered by internal combustion engines.* The cost imposed upon the nation's transportation infrastructure would be so immense that it is difficult to calculate.

In 2024 Nebraska, joined by Kansas and fifteen other States, sued California challenging the California regulations. The States argued principally that California's trucking mandate is expressly preempted by Section 209(a) of the Clean Air Act. 42 U.S.C. 7543(a). In addition, California's regulation is expressly preempted by the Federal Aviation Administration Authorization Act of 1994 at 42 U.S.C. 14501(c)(1), which concerns motor carriers.

California was never going to win in court. These express preemption provisions of federal law are unambiguous. In addition, the Clean Air Act would require California to obtain a waiver from the EPA, something California at first denied. In November 2023, California changed its mind and applied to the EPA for a waiver. But with the election of President Trump, California withdrew its EPA waiver request in January 2025 and entered into settlement negotiations with the plaintiff States. California is backing down. But not all extraterritorial state law can be defeated so easily.

#### B. West Virginia v. New York: Challenging Climate Superfund Laws

California is not the only state to attempt to regulate the environment on behalf of the entire country. In late 2024 New York enacted the Climate Change Superfund Act. The New York law imposes retroactive fines on fossil fuel producers for their purported *past* contributions to greenhouse gas emissions. It requires major greenhouse gas emitters between 2000 and 2024 to pay \$3 billion annually for 25 years – totaling \$75 billion – to fund climate resiliency infrastructure in New York. If the Act were to go into effect, consumers across the country would suffer. The Act threatens energy producers' ability to meet rising energy demands and would drive up energy costs for all Americans. Once again, a state has taken an action that attempts to regulate on behalf of all fifty states. And once again, a state has attempted to place itself into the regulatory shoes of the

federal government. Shortly after New York enacted its superfund law, Vermont followed with a similar superfund law in 2024.

The CCP-backed Chinese-American Planning Council lobbied heavily for the New York superfund law. This is the same organization into which the House Homeland Security Committee launched an investigation concerning the potential use of federal funds to facilitate illegal immigration. That investigation was launched in April 2025.

In February 2025, West Virginia, Kansas, and twenty other states sued in the U.S. District Court for the Northern District of New York to block the New York Superfund Act. We are also seeking to intervene in a case brought by private entities against the Vermont law.

We maintain that New York's superfund law is impliedly preempted by the Clean Air Act, since it attempts to defeat Congress's objective of imposing a single, nationwide standard governing emissions that travel across state lines. We also argue that New York's law is unconstitutional because it violates the constitutional principle of equal sovereignty among the states—it violates the principle that a state may not penalize or regulate the lawful activity of companies in other states. This superfund law has immense impact beyond New York's own territory. This principle of equal sovereignty is reflected in multiple clauses of the U.S. Constitution—including the Republican Guarantee Clause, which guarantees each state a representative form of government wherein voters may elect legislators to pass the laws governing them. This New York law dramatically affects conditions in Kansas, but Kansas legislators never had a voice in its passage.

Our lawsuit brings a number of other constitutional claims as well, including a due process claim and a dormant commerce power claim. But the dormant commerce power is a weaker argument in the wake of the 2023 decision by the U.S. Supreme Court in *National Pork Producers Council v. Ross*.

I am normally a strong opponent of federal preemption: I believe that Congress should exercise its power to preempt sparingly; and courts should be reluctant to find implied preemption by reading between the lines of congressional statutes. Our Constitution was intended to protect the co-equal sovereignty of states in our federal system. But to deal with this threat posed by extraterritorial environmental laws enacted by states, I believe that *Congress must act to expressly preempt these superfund laws and similar state laws that will undoubtedly follow*. The Clean Air Act should be amended to add an express preemption provision

along these lines: “no state may penalize, fine, or regulate the emissions of companies engaged in the production of energy or extraction or transmission of fossil fuels.”

**The Second New Threat: Counties and Cities Suing Energy Producers**

A second threat that has emerged in recent years comes not in the form of state legislation but in litigation brought by counties, cities, and tribes with the intent of effectively making national environmental policy. In these suits, local governments (usually alongside plaintiff individuals) sue large energy companies, seeking to address climate-related injuries allegedly caused by the production, marketing or sale of fossil fuels and related products. The suits seek massive compensatory and punitive damages. In total, nearly three dozen such cases have been filed.

*A. Rodriguez v. Exxon Mobil Corp.*

In November 2024, Ford County, Kansas—where Dodge City is located—filed a class-action lawsuit along with other plaintiffs in the U.S. District Court of Kansas against oil and petrochemical companies alleging a decades-long campaign of deception about plastics recyclability leading to the accumulation of plastic waste and other consequences. They style their case as a public nuisance action and seek damages that would likely total in the hundreds of billions of dollars. But they are not limiting their case to Ford County or even to the State of Kansas. They claim to represent a class consisting of *every* county in the United States and every resident of such counties. In other words, they claim to represent the entire country.

Setting aside the merits of their environmental claims, which are dubious at best, the plaintiffs in this case are attempting usurp the authority of the fifty states, as states. Only a state attorney general can bring a case of this nature, which seeks to remedy an alleged injury to the health, safety, or welfare of the public at large. It is an exercise of the common law doctrine of *parens patriae* (Latin for “parent of the country”), which has long been recognized by the U.S. Supreme Court. See *Late Corp. of the Church of Jesus Christ of Latter-Day Saints, et al. v. United States* 136 U.S. 1, 57 (1890); *Alfred L. Snapp & Sons, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592,600 (1982). It was under this authority that state attorneys general undertook the tobacco litigation of the 1990s. Cities and counties, however, “are not themselves sovereign” in our constitutional system; they are



creations of the states and do not possess *parens patriae* authority themselves. *City of Lafayette v. Louisiana Power & Light Co.*, 435 U.S. 389, 412 (1978).

Shortly after filing the case in Kansas concerning plastics, Ford County joined a separate group of plaintiffs filing a lawsuit in New Mexico federal court against a list of defendant companies involved in shale oil extraction. The legal claims in the New Mexico case are different, but the usurpation of the states' *parens patriae* authority is the same.

As Kansas Attorney General, I have intervened in both cases and am seeking to have Ford County dismissed. The County does not possess the authority to bring a case of this nature. Only the State of Kansas does. We expect to succeed. But even if we do, it is unlikely to stop the thousands of other counties from attempting similar litigation. It will take attorneys general across the country intervening to defend their *parens patriae* authority.

B. *Mayor and City Council of Baltimore v. BP*

As noted above, the Ford County case is one of more than thirty such environmental lawsuits brought by localities across the country. The suit that is at the most advanced stage is *Mayor and City Council of Baltimore v. BP*, Maryland Case No. 24-C-18-004219, which is currently pending before the Maryland Supreme Court. In that case, Baltimore filed suit against 25 major fossil fuel companies seeking massive damages for the burning of fossil fuels and climate change writ large. The Maryland trial court dismissed all of the plaintiffs' claims and particularly rejected their attempt to stretch public nuisance doctrine to cover "the result of fossil fuel usage and gas emissions by third parties located all over the world." *Id.*, slip op. at 23 (Circ. Ct. Baltimore City, July 10, 2024). We now await the Maryland Supreme Court's decision. By the way, Baltimore is also one of the plaintiffs in the New Mexico shale oil case. In that case, they (along with San Diego and San Jose, California) claim to represent all cities in the United States, just as Ford County (along with San Mateo County, California) claims to represent all counties in the United States.

It is important to point out that these city and county cases have been underway for many years now. The *Baltimore* case was filed in 2018 and has already been through many stages of litigation. *Importantly, the cities and counties have yet to prevail in a single case.* Not a penny in damages has been recovered to date. This begs the question: who has been funding the millions of dollars in attorney hours spent on these cases for the past seven years? Because

most states do not require the disclosure of third-party litigation funding, we do not have a precise answer. But it is reasonable to suspect that the CCP, with its pervasive and multifaceted efforts to hamstring American energy production in every way imaginable, may be funding some of the foundations and organizations that are in turn funding this nationwide litigation.

Congress can help deal with this threat too. There is already a bill in the House of Representatives to disclose third-party litigation funding in federal courts. It is H.R. 1109, the “Litigation Transparency Act of 2025.” I urge you to support a narrower, amended version of this bill that would require the disclosure of funds coming from foreign sources. While third-party funding of litigation plays a legitimate role in advancing some public interest cases, foreign funding of such litigation is highly problematic and undermines our national interests.

We state attorneys general we will continue the fight in court. Whether it be stopping a federal agency from illegally seizing power from Congress, or stopping a state from usurping Congress’s power to regulate interstate activity in the environmental sphere, the state attorneys general are often the last line of defense. But support from Congress is needed, especially when this lawfare is being supported by the CCP. I hope that these modest legislative suggestions are useful. Environmental lawfare threatens not only American economic prosperity and energy security; in its latest forms, it also threatens the American constitutional order.

**Written Testimony to the Senate Judiciary**

**Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights**

**Senator Ted Cruz, chairman**

Hearing on “Enter the Dragon—China and the Left’s Lawfare

Against American Energy Dominance”

**Scott Walter**

President, Capital Research Center

**June 25, 2025**

Senator Cruz, Ranking Member Whitehouse, distinguished members of the Subcommittee, thank you for the honor of testifying. I’m president of the Capital Research Center, where we study special interest groups and their funding, and I applaud your effort to educate Americans about the dangers of climate lawfare and its obvious threat to the lives of ordinary citizens, especially the poor.

We all know that a healthy environment is good and that inexpensive and abundant energy is also good. Polls show strong democratic majorities reject environmental policies that are expensive. For instance, a study by Ruy Teixeira and Yuval Levin found “An overwhelming 72 percent [of Americans] favored the all-of-the-above approach, including fossil fuels, while just 26 percent backed the rapid transition to renewables. The split was even more lopsided among working-class respondents than among political moderates.” The authors add, “startlingly, our survey found that among voters who planned to support the Democrats in the coming election *and* voters who supported Biden in 2020, solid majorities favored the

all-of-the-above approach and opposed replacing fossil fuels with renewables.”<sup>1</sup> An AP poll in 2023 found “nearly two-thirds of Americans are unwilling to pay any amount of money to combat climate change.”<sup>2</sup>

It's easy to guess whether these big majorities would favor intensive climate litigation, which acts as a tax on energy and therefore on most human activity.<sup>3</sup> It's also easy to document that, in opposition to large majorities of Americans, climate activists *want* to raise energy costs and burden nearly all human activity. Last year California's attorney general said publicly that his climate litigation would make oil and gas “more expensive” and thus disincentivize their use.<sup>4</sup> In an article he co-authored, the former chief climate counsel of the Sierra Club was even more blunt. He defended climate lawfare because by “holding oil companies responsible” for climate change, this lawfare “hold[s] oil consumers responsible.”<sup>5</sup> In other words, *pay up*.

Perversely, lawfare often impedes wind and solar power. Consider what a representative of a trade group that represents offshore businesses—not only oil and gas interests but also offshore wind, offshore minerals, and offshore carbon sequestration—told a House committee in 2023:

The U.S. economy relies upon affordable and reliable supplies of all forms of energy ... the U.S. offshore sector is contributing to the development of low and zero carbon energy options, including offshore wind, hydrogen, and carbon removal technologies.... Unfortunately, ... the pathway for investment continues to be riddled with the threat of litigation. In the federal system, no matter the project, companies must factor in the possibility that it could become mired in the muddy spokes of the court system. Whether it is roads and bridges, oil and gas, or wind and solar, excessive litigation serves to sideline investment and jobs and exacerbate inflationary impacts.<sup>6</sup>

---

<sup>1</sup> <https://www.aei.org/wp-content/uploads/2024/10/Politics-Without-Winners-Can-Either-Party-Build-a-Majority-Coalition.pdf>.

<sup>2</sup> <https://epic.uchicago.edu/insights/americans-views-on-climate-change-and-policy-in-10-charts/>.

<sup>3</sup> A poll conducted for the Manufacturers' Accountability Project found support for suing companies to pay for or deal with climate change was in the single digits. <https://mfgaccountabilityproject.org/wp-content/uploads/2021/01/NAM-MAP-Nationwide-Poll-Summary-MAP.pdf>.

<sup>4</sup> Quoted in <https://www.forbes.com/sites/waynewinegarden/2024/06/03/fossil-fuel-lawsuits-are-a-tax-on-consumers/>.

<sup>5</sup> <https://www.niskanencenter.org/oil-companies-should-be-held-accountable-for-climate-change/>.

<sup>6</sup> <https://oversight.house.gov/wp-content/uploads/2023/09/Milito-Testimony-House-Oversight-Litigation-9-13-23.pdf>.

At the same hearing, a representative of Minnesota's mining industry pleaded to be allowed to supply minerals like copper, nickel, and cobalt, which could be used "to build the batteries, windmills, solar panels, and other products needed to achieve carbon-free energy goals." Unfortunately, she reported, "These resources would be under development today if not for extended, repeated litigation and continued appeals focused on delaying this progress."<sup>7</sup>

America's enemies, especially Russia and China, are pleased when we hobble our energy sector. They want to be in a stronger economic position, whether selling Russia's natural gas in Europe or selling China's "green" technology in America. This fact shouldn't be controversial. Hillary Clinton, presumably based on intelligence reports she saw as Secretary of State, famously said that "a lot of the money" supporting messages against fracking came from Russia.<sup>8</sup> The *New York Times* has reported on the beliefs of leaders in countries like Romania and Lithuania that Russia and its state-owned Gazprom oil company have fueled anti-fracking activists in Europe.<sup>9</sup>

Even the Brookings Institution, in an article that applauds "Accelerating the clean energy revolution by working with China," confesses, "There is no question that the world has become too dependent on China, especially in the raw ingredients of the clean energy economy."<sup>10</sup> Just Facts Daily observes that "China dominates the global supply chains for green energy components not merely because of cheap labor but because they have lax environmental standards that tolerate the pollution these products create. Thus, China supplies 78% of the world's solar cells, 80% of the world's lithium-ion battery chemicals, and 73% of the world's finished battery cells."<sup>11</sup> Heavy subsidies by our federal government and others have helped produce these Chinese economic windfalls by distorting markets and artificially boosting consumption.

China's most passionate supporters include Neville Roy Singham, who sold his software company in 2017 for \$785 million. A multimillionaire Maoist, Singham ignores China's record of pollution and carbon emissions and instead blames capitalism for climate change. As the newsletter of Tricontinental: Institute for Social Research, one of many groups funded by Singham, explains, "the climate and environmental crisis we live in are driven by the predatory nature of capitalism."<sup>12</sup> Though an American

<sup>7</sup> <https://oversight.house.gov/wp-content/uploads/2023/09/MiningMinnesota-Congressional-Hearing-Testimony-1.pdf>.

<sup>8</sup> <https://www.washingtontimes.com/news/2016/oct/10/clinton-blames-russians-anti-fracking-groups/>.

<sup>9</sup> <https://www.nytimes.com/2014/12/01/world/russian-money-suspected-behind-fracking-protests.html>.

<sup>10</sup> <https://www.brookings.edu/articles/accelerating-the-clean-energy-revolution-by-working-with-china/>.

<sup>11</sup> <https://www.justfactsdaily.com/in-fact/n0000510>.

<sup>12</sup> <https://thetricontinental.org/newsletterissue/anthropocene-capitalism-climate/>.

citizen, Singham is a radical who lives in China and does the bidding of its Communist government. The *New York Times* has done the best reporting on Singham's influence operations, revealing how Singham, "hidden amid a tangle of nonprofit groups and shell companies" in numerous countries, "works closely with the Chinese government media machine and is financing its propaganda worldwide."<sup>13</sup>

Radicals like Singham, who love America's enemies and hate America, easily weave environmental extremism into their full-spectrum left-wing activism. And so we find the Singham-financed Code Pink, best known for its foreign policy agitation, exhorting, "Environmentalists Unite! War Fuels the Climate Crisis." Code Pink explains that "The U.S. enforces its violent empire by maintaining almost 800 military bases around the world," and "Each base contributes to the U.S. military project's status as #1 institutional polluter in the world, as it unleashes over a billion metric tons of CO2 in the atmosphere."<sup>14</sup> Code Pink has also hosted a "Rise of Green China" webinar to laud "China's rise and the evolution of its environmental sustainability practices."<sup>15</sup> "None of Mr. Singham's nonprofits have registered under the Foreign Agents Registration Act, as is required of groups that seek to influence public opinion on behalf of foreign powers," the *Times* reports.

Unfortunately, the Chinese Communist Party-loving Singham is far from the only foreign billionaire powering the environmental movement and its lawfare. There is also an Australian billionaire who funded a foreign charity to pay an American law firm to represent four tax-exempt environmentalist groups in a lawsuit against a major U.S. energy company. The suit alleges ExxonMobil "concealed the harms caused by single-use plastics,"<sup>16</sup> and California's Attorney General has filed a simultaneous suit. Also piling on is the Center for Climate Integrity. As my colleague Robert Stilson reports, the law firm representing the nonprofits (Cotchett, Pitre & McCarthy) was required to register under the Foreign Agents Registration Act (FARA).<sup>17</sup> Materials accompanying that registration disclosed that the firm was acting on behalf of an Australian charity called the Intergenerational Environment Justice Fund, for the purpose of providing "legal services in California lawsuit."<sup>18</sup> Other filings revealed the Fund paid Cotchett \$452,943 from July 2023 through December 2024.<sup>19</sup>

<sup>13</sup> <https://www.nytimes.com/2023/08/05/world/europe/neville-roy-singham-china-propaganda.html>.

<sup>14</sup> <https://www.codepink.org/wing>.

<sup>15</sup> <https://www.codepink.org/greenchina>.

<sup>16</sup> <https://www.cpmlegal.com/news-Surfrider-the-Sierra-Club-Heal-the-Bay-and-San-Francisco-Baykeeper-Sue-Exxon-for-Hiding-the-Truth-About-Plastic-Harms>.

<sup>17</sup> <https://capitalresearch.org/article/foreign-funded-plastic-lawfare/>.

<sup>18</sup> <https://efile.fara.gov/docs/7480-Exhibit-AB-20241021-4.pdf>.

<sup>19</sup> <https://efile.fara.gov/docs/7480-Amendment-20250109-3.pdf>.

What was the Intergenerational Environment Justice Fund's goal in this lawfare? Its contract with the lawyers revealed the Fund "views litigation as a means to achieve environmental objectives" and that the lawsuit's ultimate goal was "to bring positive change to the plastics industry." So in classic lawfare fashion, this litigation was launched to achieve a political objective without the trouble of going through the democratic process. And who was making an end run around American democracy? A billionaire: more specifically, a foreign national billionaire, Australian mining magnate Andrew Forrest, who endowed the \$10 billion Munderoo Foundation,<sup>20</sup> which in turn, the FARA registration reveals, controls the Intergenerational Environment Justice Fund.

Is this foreign meddling in American politics via 501(c)(3) "charities" actually a charitable act that should be incentivized through the tax code, my colleague Stilson asks. No wonder the last Congress saw Sen. John Kennedy introduce the bipartisan Protecting Our Courts from Foreign Manipulation Act,<sup>21</sup> and this Congress has had Rep. Ben Cline introduce the Protecting Our Courts from Foreign Manipulation Act of 2025.<sup>22</sup>

I mentioned that the Center for Climate Integrity is a cheerleader for the Australian billionaire's lawsuit,<sup>23</sup> which is grimly appropriate because one of the Center's significant funders is another foreign national billionaire, Christopher Hohn of Britain. Hohn is also a major backer of Extinction Rebellion, one of the world's most prominent environmental extremist groups.<sup>24</sup> In 2019 its efforts to "shut down London" lasted for days and resulted in over 1,100 arrests. Dozens of other arrests for its law-breaking have occurred in New York;<sup>25</sup> Washington, D.C.,<sup>26</sup> and elsewhere.

Still another foreign national billionaire funding environmental activism and lawfare is Hansjörg Wyss of Switzerland and Wyoming, who most recently made headlines for a lawsuit alleging he sexually harassed an employee at his winery.<sup>27</sup> As Americans for Public Trust has documented, Wyss has poured over \$650 million into the American Left.<sup>28</sup> He has sent millions to such groups as the ClimateWorks Foundation,

<sup>20</sup> <https://philanthropynewsdigest.org/news/munderoo-foundation-endowment-could-reach-26-billion-by-2030>.

<sup>21</sup> <https://www.kennedy.senate.gov/public/2023/9/kennedy-manchin-introduce-bipartisan-protecting-our-courts-from-foreign-manipulation-act-to-end-overseas-meddling-in-u-s-litigation>.

<sup>22</sup> <https://www.congress.gov/bills/119th/congress/house-bill/2675>.

<sup>23</sup> <https://climateintegrity.org/lawsuits/case/california-nonprofits>.

<sup>24</sup> <https://archive.is/PX1Nj>.

<sup>25</sup> <https://www.pbs.org/wnet/peril-and-promise/2019/08/the-radical-philosophy-of-extinction-rebellion/>.

<sup>26</sup> <https://extinctionrebellion.us/press-release-sep-23-2019>.

<sup>27</sup> <https://www.foxnews.com/politics/swiss-born-liberal-megadonor-slapped-with-lawsuit-for-allegedly-groping-sexually-harassing-winery-employee>.

<sup>28</sup> [https://americansforpublictrust.org/wp-content/uploads/2025/04/APT\\_Wyss-Billionaire.pdf](https://americansforpublictrust.org/wp-content/uploads/2025/04/APT_Wyss-Billionaire.pdf).

Earthjustice Legal Defense Fund, and Natural Resources Defense Council. But above all he has sent over \$278 million to the Sixteen Thirty Fund, a 501(c)(4) operated by Arabella Advisors<sup>29</sup> and called by the *Atlantic*, “the indisputable heavyweight of Democratic [Party] dark money.”<sup>30</sup> Sixteen Thirty in turn has given tens of millions of dollars to the League of Conservation Voters and other environmental groups. Wyss serves on the board of the Wilderness Society,<sup>31</sup> whose climate lawfare includes the notable case of *Mountain Valley Pipeline v. The Wilderness Society*, which the Society lost in 2023 when the U.S. Supreme Court, with no recorded dissents, issued a brief unsigned order that lifted a 4th Circuit hold on pipeline construction.<sup>32</sup>

Incidentally, both the Wyss Foundation and Arabella’s nonprofits use the Elias Law Group, run by Marc Elias, the so-called Democratic “super-lawyer” known for his bare-knuckles partisanship.<sup>33</sup> Before Wyss began passing his dollars through the Arabella Advisors nonprofit network, he violated campaign finance law by sending “hard dollar” donations to various Democratic politicians, including then-Rep. Jay Inslee and Sen. Dick Durbin. These illicit contributions were not discovered until after the statute of limitations expired, but they are documented in the Federal Election Commission’s database<sup>34</sup> and are also noted in an extensive report<sup>35</sup> by the FEC’s general counsel in response to a complaint filed by Americans for Public Trust.<sup>36</sup>

Climate lawfare in America is also funded by homegrown billionaires, and many of these billionaires have the same last name: *Foundation*. Especially notable are the Hewlett Foundation and various Rockefeller philanthropies, but there are many more, including the Ford Foundation and the MacArthur

<sup>29</sup> The *New York Times* describes Arabella’s nonprofit empire as “an opaque network managed by a Washington consulting firm” that has “funneled hundreds of millions of dollars through a daisy chain of groups supporting Democrats and progressive causes. The system of political financing, which often obscures the identities of donors, is known as dark money, and Arabella’s network is a leading vehicle for it on the left.” Ken Vogel, “Top Bidder for Tribune Newspapers Is an Influential Liberal Donor,” *New York Times*, April 17, 2021, <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

<sup>30</sup> <https://www.theatlantic.com/politics/archive/2021/11/arabella-advisors-money-democrats/620553/>.

<sup>31</sup> <https://www.wilderness.org/about-us/our-team/our-governing-council>.

<sup>32</sup> <https://www.scotusblog.com/2023/07/supreme-court-rules-in-favor-of-mountain-valley-pipeline/>.

<sup>33</sup> See, e.g., the 2022 IRS Form 990 for the Wyss Foundation, which reports \$61,251 in compensation to Elias’s firm; <https://www.influencewatch.org/app/uploads/2023/12/Wyss-Foundation-Form-990-2022.pdf>.

<sup>34</sup> [https://www.fec.gov/data/receipts/individualcontributions/?contributor\\_name=Wyss%2C+Hansjoerg&contributor\\_name=Wyss%2C+Hansjorg](https://www.fec.gov/data/receipts/individualcontributions/?contributor_name=Wyss%2C+Hansjoerg&contributor_name=Wyss%2C+Hansjorg).

<sup>35</sup> <https://www.influencewatch.org/app/uploads/2023/06/FEC-gen-counsel-report-on-APT-Wyss-complaint.pdf>.

<sup>36</sup> <https://americansforpublictrust.org/document/wyss-complaint/>.



Foundation. This helps to explain why a tally of only a few of the leading climate lawfare groups totals revenues of a half-billion dollars a year:

**Annual Revenues  
of  
Leading Climate Lawfare Groups**

|                                                    |                       |
|----------------------------------------------------|-----------------------|
| Center for Biological Diversity (CBD)              | \$ 34,484,948         |
| Center for International Environmental Law         | \$ 10,266,541         |
| ClientEarth                                        | \$ 8,439,891          |
| Conservation Law Foundation                        | \$ 16,528,889         |
| Earthjustice                                       | \$ 125,960,142        |
| EarthRights International                          | \$ 6,108,820          |
| Environmental Integrity Project                    | \$ 6,400,051          |
| Environmental Law and Policy Center of the Midwest | \$ 10,923,738         |
| Natural Resources Defense Council (NRDC)           | \$ 193,144,386        |
| Our Children's Trust                               | \$ 4,964,407          |
| Public Justice Foundation                          | \$ 9,705,815          |
| Southern Environmental Law Center                  | \$ 62,847,748         |
| Western Environmental Law Center                   | \$ 3,869,418          |
| WildEarth Guardians                                | \$ 3,989,393          |
| <b>TOTAL</b>                                       | <b>\$ 497,634,187</b> |

Source: IRS Form 990s filed for FY ending in 2023.

Many environmentalist groups funded by the multitude of left-wing billionaires have disturbing foreign ties. For example, the Rocky Mountain Institute, best known for its notorious study attacking gas stoves,<sup>37</sup> now has a China program<sup>38</sup> set up by its current CEO. The Institute's co-chair Martha Brooks previously

<sup>37</sup> "This paper does not do any research on possible association between residential natural gas use and risk of childhood asthma," Yale professor of medicine Harvey Risch told the *Free Beacon*. "It only calculates a percent of childhood asthma that could be attributable to residential natural gas use and risk of childhood asthma." The *Beacon* added, "That distinction is important, Risch said, particularly when calling for such a dramatic public policy proposal that would change how tens of millions of Americans prepare their food. The study was also ethically dubious, according to Risch, as its authors stated they held no conflicts of interest despite working for climate change activist groups. The Rocky Mountain Institute's board, for example, is filled with executives at green energy corporations with a financial interest in banning the use of fossil fuels." <https://freebeacon.com/biden-administration/meet-the-green-energy-group-behind-the-study-thats-driving-calls-to-ban-gas-stoves/>.

<sup>38</sup> <https://rmi.org/our-work/china-program/>.

chaired the Yale-China Association. Wei Ding, another board member as of 2023, is the founder and chairman of the Chinese private equity firm Broad River Capital, the *Free Beacon* reports, adding that “Ding started the firm after serving as chairman of the China International Capital Corporation (CICC), a partially state-owned investment bank. Former CICC executives include Chinese leader Xi Jinping’s vice president and right-hand man, Wang Qishan, while the corporation’s website highlights its ‘deep participation in China’s economic reforms and development’<sup>39</sup> and goal to ‘serve the nation.’”<sup>40</sup>

The *Beacon* also reports how the Institute “joined forces with China’s National Development and Reform Commission—the government agency tasked with planning the communist nation’s economy—to produce a report that advised China to replace existing appliances and generators with ‘clean energy technologies.’<sup>41</sup> The commission went on to set climate goals that included energy reduction targets. When local provinces in 2021 failed to meet those targets, the commission pushed them to implement electricity rations.”<sup>42</sup>

The California China Climate Institute is another troubling environmentalist group. Housed at U.C. Berkeley, it is a University of California-wide initiative founded and led by former Governor Jerry Brown. It partners with the Institute of Climate Change and Sustainable Development at China’s Tsinghua University, the alma mater of Xi Jinping which the Australian Strategic Policy Institute deems a “very high risk” institution for its alleged role in supporting cyberattacks. The Australian Strategic Policy Institute adds that not only the university’s “dedicated defence laboratories but also a range of key laboratories and research institutions at the university have received funding from the military.”<sup>43</sup> Reuters reports that in 2018 hackers operating from this elite university probed “U.S. energy and communications companies, as well as the Alaskan state government.”<sup>44</sup>

The California China Climate Institute also partners with several Chinese Communist Party front groups, the *Free Beacon* reports,<sup>45</sup> including the Chinese People’s Association for Friendship with Foreign Countries, a group Beijing uses to “malignly influence state and local leaders” to advance China’s “global

<sup>39</sup> <https://archive.is/KXCWY>.

<sup>40</sup> <https://web.archive.org/web/20230201204657/https://en.cicc.com/cmscontent/26.html>.

<sup>41</sup> [https://rmi.org/wp-content/uploads/2017/05/OCS\\_Report\\_ReinventingFireChina\\_2016.pdf](https://rmi.org/wp-content/uploads/2017/05/OCS_Report_ReinventingFireChina_2016.pdf).

<sup>42</sup> <https://qz.com/2065891/why-is-china-rationing-electricity/>.

<sup>43</sup> <https://unitracker.aspi.org.au/universities/tsinghua-university/>.

<sup>44</sup> <https://www.reuters.com/article/us-usa-china-cyber/chinese-hackers-targeted-u-s-firms-govt-after-trade-mission-researchers-idUSKBN1L11D2/>.

<sup>45</sup> <https://freebeacon.com/democrats/gavin-newsom-ignores-intelligence-warnings-strengthens-ties-with-ccp-linked-climate-group/>.

agenda,” according to a Department of State warning.<sup>46</sup> The Office of the Director of National Intelligence issued similar warnings in 2022<sup>47</sup> and 2023,<sup>48</sup> noting that China emphasizes influence operations at the state and local levels because it calculates that local officials “are more pliable than their federal counterparts.”

For further evidence of the California Institute’s China ties, consider that it helped organize Gov. Gavin Newsom’s October 2023 junket to China,<sup>49</sup> which he made “alongside Xie Zhenhua, China’s special representative for climate change affairs,” the *Beacon* reports. In 2021 Gov. Newsom signed a law requiring the Institute to work with Chinese institutions to train California government leaders on climate issues, the *Beacon* adds.<sup>50</sup> Institute funders include the ubiquitous Hewlett Foundation and the Rockefeller Brothers Fund.

Another wealthy and prominent environmentalist group funded by left-wing billionaires is Energy Foundation China, a 501(c)(3) “charity” headquartered in San Francisco. As a thorough report by State Armor explains, this group “is led by Ji Zou, a former official of an influential Chinese government agency, and most of its employees are in Beijing.”<sup>51</sup> Its most recent IRS filing shows 2023 revenues totaled over \$84 million,<sup>52</sup> thanks to the generosity of billionaires like the MacArthur and Hewlett foundations and the Children’s Investment Fund Foundation, which is the philanthropic vehicle for Christopher Hohn, the British billionaire mentioned earlier for his support of the Center for Climate Integrity’s lawfare and of the violent radicals at Extinction Rebellion. In the incestuous world of environmentalist funding, Energy Foundation China “has spent millions each year to bankroll climate advocates who promote phasing out fossil fuels and implementing green energy alternatives like the Rocky Mountain Institute and Natural Resources Defense Council, the latter of which was the target of a 2018 Congressional inquiry into whether it should register as a foreign agent based on its Chinese funding,” State Armor observes. More recently, State Armor continues, Energy Foundation China has led a state-level campaign of legislation and litigation against the leading Western fertilizer company, Bayer, which may force the company out of the U.S. market and leave our farmers dependent on a Chinese

<sup>46</sup> <https://2017-2021.state.gov/designation-of-the-national-association-for-chinas-peaceful-unification-nacpu-as-a-foreign-mission-of-the-prc/index.html>.

<sup>47</sup> [https://www.dni.gov/files/NCSC/documents/SafeguardingOurFuture/PRC\\_Subnational\\_Influence-06-July-2022.pdf](https://www.dni.gov/files/NCSC/documents/SafeguardingOurFuture/PRC_Subnational_Influence-06-July-2022.pdf).

<sup>48</sup> <https://www.dni.gov/files/ODNI/documents/assessments/ATA-2023-Unclassified-Report.pdf>.

<sup>49</sup> <https://ccci.berkeley.edu/news/2023/11/california-china-climate-institute-partners-newsom-administration-successful-climate>.

<sup>50</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB39](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB39).

<sup>51</sup> <https://statearmor.org/who-is-energy-foundation-china/>.

<sup>52</sup> <https://projects.propublica.org/nonprofits/organizations/943126848/202403199349306005/full>.

company for fertilizer. This neutralization of America's critical advantage over China in food production would be a great victory for the Communist regime. Similarly, the Energy Foundation China has supported efforts to move American homes away from gas appliances to electrical substitutes, but "since neither the United States nor its Western allies produce electrical components at a scale that would be appropriate for such a transition, the re-wiring would likely entail mostly Chinese inputs, a further step in the direction of dependence on the CCP for critical infrastructure," State Armor warns.

Energy Foundation China's employees have deep ties to the China Communist Party. CEO Zou Ji held a leadership position in China's National Center for Climate Change Strategy and, State Armor notes, "was so deeply tied into CCP leadership that he was included as a part of China's delegation to the 2015 Paris Climate Talks. Zou's other affiliations include a position at Tsinghua University," earlier described as a high-risk institution tied to Chinese cyberattacks. The Foundation's environmental program director, Xin Liu, "also held high-ranking positions within Chinese government entities, and Energy Foundation China's board includes Hongjun Zhang, ... who is a member of China's Council for International Cooperation on Environment and Development and previously a legislative director for the China National People's Congress." Zhang's D.C. law firm "touts that he has worked for 'many years in the Chinese government,' including stops at the 'Ministry of Industry and Information Technology (MIIT), Ministry of Commerce (MOFCOM), State Food and Drug Administration (CFDA), Ministry of Agriculture (MOA), and National Development and Reform Commission.'" Zhang has even helped author China's Five-Year Plans.

The Foundation's executive vice president, David Vance Wagner, spent years coordinating with China's Communist Party as a U.S. State Department employee, and before that he worked for China's Ministry of Environmental Protection. He has a master's degree from the high-risk Tsinghua University. The Foundation's headquarters in China for its roughly 80 local staff members are in a building owned by CITIC group, a state-owned Chinese investment corporation. One of the Foundation's top contractors is Beijing China News Network, the website of China's state-owned China News Service that spreads the regime's propaganda around the world.<sup>53</sup>

On the one hand, State Armor reports, the Foundation "regularly sends grants directly to CCP-controlled agencies in China, including the National Center for Climate Change Strategy, the Chinese Academy of Environmental Planning, and Chinese Academy of Sciences," and it partners with governmental entities

---

<sup>53</sup> <https://www.chinanews.com.cn/common/footer/aboutus.shtml>.

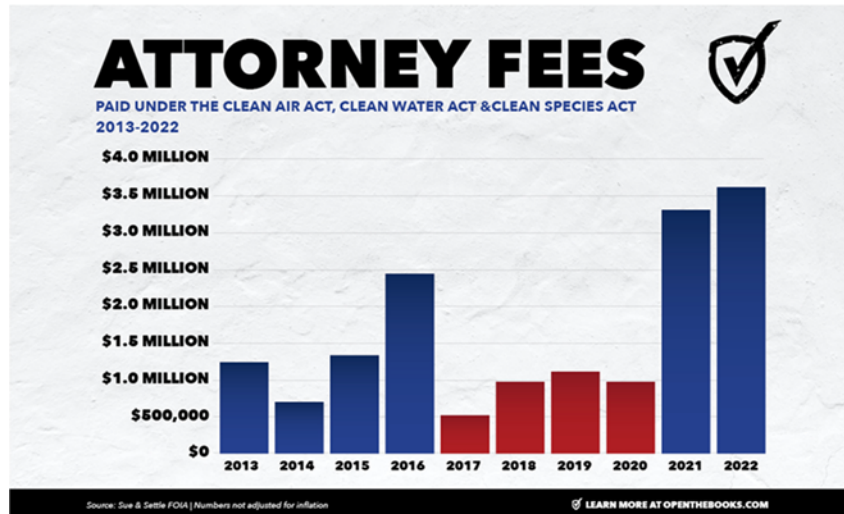
like the Jiangsu Provincial Department of Ecology and Environment, Tsinghua University, and the Tongzhou District People's Government of Beijing. On the other hand, it also sends money to flagship American universities like the University of California Berkeley, UCLA, and Harvard, and it supports studies praising mandatory electrification policies in Berkeley and Brookline, Massachusetts.

In short, all the Foundation's work helps ensure "America is subsidizing China's energy resilience while harming its own," which explains why the Chinese Communist Party "has every incentive to support climate activism in America."

But while climate lawfare's ties to foreign governments are disturbing, lawfare's domestic ties to government at all levels is also problematic. For example, the use by environmentalist nonprofits of so-called sue-and-settle strategies is still another way these activists bypass the democratic process. A nongovernmental organization, or NGO in Washington-speak, colludes with friends in the government—often past and/or future employees of the same organization—to sue those friends' agency and demand a policy change. The government friends then march hand-in-hand with their plaintiffs to a judge, claiming they were fairly caught and are willing to enter into a consent decree, which gives the cover of law to the policy change that otherwise would have required Congressional approval or at least a proper public regulatory process. As icing on the cake, the federal bureaucrats pay legal fees to their NGO friends, who may well be hiring those same bureaucrats at the next change of administrations. Open the Books has a chart<sup>54</sup> displaying the tax dollars that have been handed to environmental activist attorneys in this way by the Environmental Protection Agency in recent years:

---

<sup>54</sup> <https://www.openthebooks.com/substack-secretive-sue-and-settle-back-in-play-at-bidens-epa/>. See also [www.realclearinvestigations.com/articles/2024/02/21/sue\\_and\\_settle\\_looks\\_to\\_some\\_like\\_crony\\_democracy\\_and\\_under\\_bidens\\_lawfaring\\_eco-politics\\_its\\_back\\_1012674.html](https://www.realclearinvestigations.com/articles/2024/02/21/sue_and_settle_looks_to_some_like_crony_democracy_and_under_bidens_lawfaring_eco-politics_its_back_1012674.html).



An additional example of disturbing lawfare ties to the federal government involves yet another left-wing billionaire, Michael Bloomberg, who has led a campaign to install environmental activists in state attorneys general offices around the country. The aim is to push state governments to sue energy companies, and the explicit model from the beginning has been the past success of states in suing tobacco companies and thereby turning those companies into cash cows for both the state governments and also for their outside lawyer cronies.

This legal campaign began in a June 2012 gathering in LaJolla, California. Participants included activists like the general counsel for Greenpeace International and leaders at the Union of Concerned Scientists, as well as activist academics and lawyers like Matt Pawa, founder of the Global Warming Legal Action Project.<sup>55</sup> The fossil fuels industry could, like Big Tobacco before it, become the source of monies for elected officials and collaborating attorneys and activist groups, if state and federal legal officers would assist. Litigation could also bring about political victories that the same activists had failed to achieve through the democratic process in legislatures.

<sup>55</sup> Union of Concerned Scientists and Climate Accountability Institute. Summary of the Workshop on Climate Accountability, Public Opinion, and Legal Strategies, October 2012; <https://climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf>



While the tobacco campaign only saw a pittance of the money extracted go to efforts to prevent or reduce tobacco use,<sup>56</sup> it enriched the warrior-lawyers with “contingency fees totaling billions in the first five years of the agreement and continuing indefinitely at a rate of \$500 million annually,” observes Stanford professor of economics Jeremy Bulow.<sup>57</sup> Climate lawfare hopes to replicate this scheme, as Chris Horner has carefully documented with public records requests and lengthy reports.<sup>58</sup> Unfortunately for these money-hunters, most of their suits have not fared well. For instance, the New York Attorney General’s own staff attorneys initially resisted the pre-fabricated legal strategy proposed by the outside-funded campaign and hoped the attorney who prepared the legal memos “can come to see that he’s wrong.”<sup>59</sup> When the New York Attorney General later went to court, a 2019 decision by a New York judge denied all claims asserted by the Attorney General and ruled the action “dismissed with prejudice.” The judge also addressed the surprising and abrupt withdrawal by the Attorney General, during the last day of argument, of “its claims of equitable fraud and common law fraud contained in the third and fourth causes of action in its hyperbolic Complaint.”<sup>60</sup>

Unfortunately, the lawfare hasn’t stopped, because there’s apparently no bottom to Big Philanthropy’s wallet supporting this litigation. Consider the millions of dollars sent by MacArthur, Hewlett, the Rockefeller Brothers, et al. to the Collective Action Fund for Accountability, Resilience, and Adaptation, a fiscally sponsored project of Arabella Advisors’ biggest in-house nonprofit, the New Venture Fund. This goes to support the for-profit law firm Sher Edling to sue energy companies on behalf of states like Rhode Island and cities like Charleston and Baltimore. As my colleague Robert Stilson asked in *The Hill*, at what point does this arrangement cease to be “charitable” as Americans understand the term? Isn’t the contentious issue of climate change “exactly the sort of issue that should be resolved through the political

<sup>56</sup> Since the national tobacco industry settlement, state governments have received \$201.2 billion from 1998-2024, but less than \$1 billion of that has gone to efforts to prevent or reduce tobacco use. Data available at Campaign for Tobacco Free Kids, “Actual Tobacco Settlement Payments Received by the States, 1998-2023”; <https://www.tobaccofreekids.org/assets/factsheets/0365.pdf>.

<sup>57</sup> Quoted in Bill Snyder, “Fiscal Failings of the Government’s Tobacco Settlement,” Insights by Stanford Business School, January 1, 2007; <https://www.gsb.stanford.edu/insights/fiscal-failings-governments-tobacco-settlement>.

<sup>58</sup> For example, Chris Horner, “Law Enforcement for Rent: How special interests fund climate policy through State Attorneys General,” Competitive Enterprise Institute; <https://cei.org/wp-content/uploads/2018/08/Christopher-Horner-Law-Enforcement-for-Rent-with-Appendix.pdf>.

<sup>59</sup> “Amicus Brief Details Climate Litigation Campaign’s Political Origins: Newly obtained records withheld for seven years reveal NYAG attorneys abandoned misgivings about pre-packaged ‘subpoena suggestion’ after months of activists’ climate-lawsuit lobbying,” Climate Litigation Watch, November 29, 2023; <https://climatelitigationwatch.org/amicus-brief-details-climate-litigation-campaigns-political-origins/>.

<sup>60</sup> *People of the State of New York v. Exxon Mobil Corporation*, <https://climatelitigationwatch.org/wp-content/uploads/2019/12/452044-2018-Op-12,10,19.pdf>.

process, by voters and their elected representatives in Congress, not through a judicial process, by private lawyers and their ideologically motivated funders?"<sup>61</sup>

This kind of lawfare also raises ethics issues. Contingency fees for firms like Sher Edling and Lieff Cabraser Heimann & Bernstein presume that the firms are taking a risk, but is there risk with such pre-existing funding? And did these for-profit firms disclose to their government clients their prior funding? And if those government clients were aware of the funding, did they disclose it to the public whose tax dollars they're sending to their outside counsel cronies?

Any Member of the Subcommittee who supports unions should know that this cronyism has turned into union-busting: the government workers union that represents staff attorneys in the California Attorney General's office is suing their crusading Attorney General for spending tax dollars on Sher Edling instead of hiring more government attorneys.<sup>62</sup>

One more ethics problem deserves airing. The Climate Judiciary Project, run by the Environmental Law Institute, seeks to "educate"—from a left-wing perspective—federal and state judges about climate change and related litigation designed to extract billions of dollars from energy companies. As Climate Litigation Watch observes, this is an "effort by the plaintiffs' climate tort movement, unearthed by Government Accountability & Oversight (GAO) and Energy Policy Advocates (EPA), to brief federal judges on the plaintiffs' case with what they declare to be 'the science' behind climate, with speakers drawn exclusively from the world of plaintiffs' witnesses or historic amicus brief filers in support of the climate litigation complex." Climate Litigation Watch has a longer description<sup>63</sup> of how the Climate Judiciary Project occupied its initial host organism, the Federal Judicial Center, which as a creature of Congress, deserves your oversight.

In sum, if the public knew the cost of climate lawfare and the degree of foreign influence connected with it, they would be outraged. I hope this hearing begins the process of revelation.

Thank you.

---

<sup>61</sup> <https://thehill.com/opinion/energy-environment/4422166-why-are-charities-funneling-millions-into-climate-change-lawfare/>.

<sup>62</sup> <https://www.eenews.net/articles/california-ag-is-sued-by-his-offices-lawyers-for-outsourcing-climate-case/>.

<sup>63</sup> <https://climatelitigationwatch.org/prep-the-judges-lest-ye-be-judged/>.



**SENATOR TED CRUZ**  
**U.S. Senate Committee on the Judiciary**

**Questions for the Record for David Arkush, Witness at the Senate Judiciary Subcommittee Hearing Entitled *Enter the Dragon—China and the Left's Lawfare Against American Energy Dominance***

**I. Directions**

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous witness declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible and what efforts you intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

NOTE: Just before opening this document to review the questions and begin to type answers, I saw breaking news regarding unprecedented, climate-related flooding that has killed at least 27 children in Texas, while rescuers search for dozens more who are still missing.

For a moment, set aside your objections to prosecuting fossil fuel companies for criminal misconduct. Regardless of whether anyone is investigated or prosecuted, it is obvious that climate change is killing people, including people you represent in Texas. It is also well established—as oil majors admit under oath in court—that global warming is caused primarily by burning fossil fuels. Moreover, the industry’s own internal documents reveal that they predicted many current climate harms several decades ago, and we now know that their predictions were startlingly accurate. I say this not to make a point about culpability, but as additional evidence that the rampant, unnecessary burning of fossil fuels is causing mass harm. The industry knows it, and you must know it.

Oil majors would claim that the harm is justified by the benefits of their products. But if they believed that—and if they believed consumers and the public would freely agree with them—then they wouldn’t have spent the last several decades lying about climate science and climate solutions. What’s actually going on is that the industry has a reality problem: We can replace most of their products with energy sources that are better in nearly every way—cheaper, cleaner, more reliable, and safer. The demand is for *energy*, not energy from any particular source. Fossil fuel firms could have chosen to produce energy from other sources. They still can. But the newer sources of energy, while profitable, have been less lucrative than fossil fuels, and the industry would prefer to make a higher return on investment. That, ultimately, is the crux of the problem: A powerful, unaccountable industry wants to keep making extra money as long as possible, and we need to require it to act more responsibly.

I continue to invite you and your staff to serve your Texas constituents and our nation by working to solve the grave problem of rampant, unnecessary fossil fuel use rather than perpetuating it. As a Texas Republican, you are well-positioned to make a positive difference—more so than most public officials in the United States. You could be a hero.

Please consider it. I would be happy to discuss the matter with you further.

## II. Questions on “Climate Homicide”

In your 2024 Harvard Environmental Law Review article,<sup>1</sup> you advocate for creation of a crime of “climate homicide” to be asserted against the traditional energy industry, an essential driver of modern life. You reiterated your support for this theory during the hearing, telling Senator Cruz you believe energy industry executives should be jailed.

1. At the hearing, you testified under oath that the fossil fuel industry “kills millions of people every year” and endangers “humanity’s survival.” Given those sentiments, and your proposal that the manufacture and sale of fossil fuel resources should constitute a criminal act of homicide, do you believe that the government should categorically prohibit the manufacture and sale of fossil fuels in order to save, as you contend, “millions of people every year”? If not, why?

No. I believe we should do everything in our power to reduce greenhouse gas emissions to safe levels as rapidly as possible. Most current fossil fuel use is unnecessary and can readily be reduced or eliminated through a combination of energy efficiency, renewables, storage, and transmission. Taking these steps will not only combat climate change, but create millions of jobs and provide vastly cheaper, more reliable and abundant energy, while reducing myriad health harms from burning fossil fuels.

I also believe fossil fuel companies and public officials who care about the well-being of Americans, the health of the American economy, and the success of America as a nation should assist this effort rather than fight it.

I would also like to correct a few mistakes in the question above. It states that I told Senator Cruz that I “believe energy industry executives should be jailed.” That was Senator Cruz’s characterization. In the hearing, I stated, “it could be the case that some executives should be prosecuted.”

The question also states that I “advocate for creation of a new crime of ‘climate homicide’” in my *Climate Homicide* article. But the article does not advocate for the creation of a new crime. Rather, it argues for the application of standard homicide doctrine to a course of conduct to which it has not been applied yet—the reckless, if not knowing, killing of millions of humans by fossil fuel companies who have defrauded consumers and the public about the dangers of their products and the viability of

---

<sup>1</sup> See David Arkush et al., *Climate Homicide: Prosecuting Big Oil For Climate Deaths*, 48 HARVARD ENV. L. REV. 45 (2024).

alternatives so they can profit financially despite knowing that excessive use of their products would cause, in the industry's own words, "globally catastrophic" harm.

By including the phrase "you testified under oath," the question may be read to cast doubt on the veracity of the claims that (1) the fossil fuel industry kills millions of people every year; and (2) excessive burning of fossil fuels threatens humanity's survival. The first is flatly true. For one, air pollution largely attributable to burning fossil fuels is responsible for 1 in 5 deaths globally, or many millions of deaths every year.<sup>2</sup> The second statement is from an internal American Petroleum Institute document from 1982.<sup>3</sup> It is also obvious that humanity could disrupt the global climate so much that we cannot be certain we would survive. The 1982 API document states that we could reach that point at 4°C of warming, which remains a reasonable conjecture.

2. The fossil fuel energy sector is heavily regulated at both federal and state levels. How do you bridge the gap between calling for criminalization of the energy industry's supply of fossil fuels to end users, even while the government - including with the voices of some of the most prominent politicians in the Democratic Party - otherwise permits, regulates, and overtly encourages<sup>4</sup> the conduct you contend to be criminal?

There is no contradiction between an activity being harmful and being regulated. Whether something is "heavily" regulated is in the eye of the beholder. I won't speak to that question here.

There is also no contradiction between conduct being legal in some circumstances and being criminal, even homicidal, in others. I can legally offer a child a peanut butter and jelly sandwich. But if I know the child has a severe peanut allergy, and the child dies from eating the sandwich, then my conduct may constitute homicide.

I also testified that the fossil fuel industry has been fraudulently lying for decades about climate harms and solutions. For this reason, its conduct has *not* been lawful.

<sup>2</sup> See, e.g., Anna Miller, *Fossil Fuel Air Pollution Responsible for 1 in 5 Deaths Worldwide*, Harvard School of Public Health, Feb. 9, 2011, <https://hsph.harvard.edu/climate-health-c-change/news/fossil-fuel-air-pollution-responsible-for-1-in-5-deaths-worldwide/>.

<sup>3</sup> See Alan Oppenheis & William I. Donn, *Climate Models and CO2 Warming*, LAMONT-DOHERTY GEOPHYSICAL OBSERVATORY, COLUMBIA UNIVERSITY, 4–5 (Mar. 16, 1982).

<sup>4</sup> See, e.g., Josh Boak, *Biden Calls for More Production and Lower Profits in Letter to U.S. Oil Refiners*, PBS NEWS (June 15, 2022), <https://www.pbs.org/newshour/nation/biden-calls-for-more-production-and-lower-profits-in-letter-to-u-s-oil-refiners>; Reuters, *California Governor Seeks Help for Struggling Oil Refiners*, REUTERS (Apr. 23, 2025), <https://www.reuters.com/sustainability/climate-energy/california-governor-seeks-help-struggling-oil-refiners-2025-04-23/>.

Moreover, the industry has, through its fraud, corrupted much of the market and regulatory infrastructure in which it now operates. In other words, even if its conduct were legal, it obtained the current legal regime and market circumstances in part by defrauding the public and policymakers, rendering ineffective any resort to claims of lawfulness.

3. How much fossil fuel, if any, may the U.S. energy industry provide to satisfy business, consumer, and even government demand before doing so rises to the level of criminal misconduct?

It may depend on which crime we are discussing. But the industry certainly would not be liable for crimes against persons if it were to sell only a safe amount of its products. Again, the vast bulk of demand is for energy, not any energy from any particular source—and certainly not energy produced and used in ways that destroy humanity’s only habitat.

4. Given that the U.S. Department of Defense is the largest single purchaser of fossil fuels in the United States, do you propose (apart from any consideration of sovereign immunity) that the Department of Defense, and those who operate within and lead it, should be subject to criminal sanctions for climate homicide? If not, why not?

The U.S. Department of Defense, at least when run by individuals committed more to securing America than serving any particular ideology, industry, or leader, recognizes that fossil fuel supply issues pose major logistical and operational challenges in combat scenarios, and it is therefore working to reduce its need for fossil fuels.

The Department of Defense has also made clear that climate change is a severe threat multiplier, in part because it foments violence and creates desperate populations seeking to migrate. In other words, the military recognizes that climate change causes injuries and deaths, and it obviously supports reductions in the threats posed and exacerbated by burning fossil fuels.

Finally, we should all recognize that the need to secure access to fossil fuels drives an enormous amount of U.S. foreign policy and military conflict—nearly all of which would be obviated by transitioning the U.S. economy to cheaper, more stable sources of energy, like renewables.

5. In the Sixth Assessment Report (the “AR6”) issued by the Intergovernmental Panel on Climate Change (“IPCC”), the IPCC expressly states that “[s]cientists cannot answer directly whether a particular event was caused by climate change, as extremes do occur naturally, and any specific weather and climate event is the

result of a complex mix of human and natural factors.”<sup>5</sup> Given that even the IPCC is unable to identify a causal relationship between any given weather event and climate change, much less the purported causes of climate change (such as anthropogenic emissions from the combustion of fossil fuels), on what basis do you conclude that prosecution for “climate homicide” could ever meet the required burden of proof for “guilt beyond a reasonable doubt”? Do you contend that the burden of proof for “climate homicide” should be reduced to a lower standard to facilitate prosecutors’ ability to secure a conviction?

The quoted statement about causation is, at a minimum, outdated. IPCC reports are always behind the times. They review past science and, on top of that, take years to produce. Further, the IPCC report quoted here is four years old. In addition, IPCC reports can be watered down by nations with a strong interest in continuing to produce and sell fossil fuels.

A rapidly developing branch of climate science called attribution science has made tremendous progress in recent years in analyzing whether particular extreme weather events can be attributed to climate change. In some instances, the evidence is extremely strong.

### III. Questions on Personal Carbon Footprint; Users Versus Suppliers

During the hearing, you were asked whether individuals with large carbon footprints, like prominent politicians who heavily utilize private jets (e.g., John Kerry), should also face prosecution under your theory. You declined to extend culpability to these individuals, and you also excused your own contribution to climate change.

1. New York University Law School recently published an entire issue brief entitled “The U.S. Power Sector’s Annual Climate Pollution Causes Thousands of Deaths and Massive Economic Damage.”<sup>6</sup> Do you believe that the crime of “climate homicide,” for which you advocate, should apply to the power generation sector in the United States? To other industries that are alleged to be contributors to climate change?

<sup>5</sup> CLIMATE CHANGE 2021: THE PHYSICAL SCIENCE BASIS, INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE 1611, [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_FullReport.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_FullReport.pdf).

<sup>6</sup> Howard & Schwartz, *The Scale of Significance: Power Plants*, INST. FOR POL’Y INTEGRITY, N.Y. UNIV. SCH. OF L. (May 30, 2025) <https://policyintegrity.org/publications/detail/the-scale-of-significance-power-plants>.

It depends whether they meet the relevant legal standards. I haven't looked closely at any other industry. I have started by focusing on the industry that is most responsible both for creating the problem and defrauding people over it for decades, while knowing that it would cause, in the industry's own words, "globally catastrophic harm" and more. Some utilities appear to have participated in defrauding the public about climate harms and solutions, along with the oil industry.

2. If you propose that your theory be limited to fossil-fuel providers alone, on what reasoned basis do you restrict criminal liability to those actors, versus others alleged to contribute to climate change?

I would not rule out the possibility that prosecutions might be merited in some other instances. It depends on whether an actor's or industry's conduct satisfies the elements of the offense—*i.e.*, whether they legally caused a given climate harm with a culpable mental state.

3. What other areas of criminal law, if any, categorically excuse from criminal liability the *users* of a criminal instrumentality, restricting criminal liability only to those who made that instrumentality available for criminal use?

The relevant question here, and in many criminal cases, is who substantially caused harm with a culpable mental state, not some distinction between users and suppliers.

But it is not uncommon in criminal law to punish a supplier more than a user, or vice versa—or one side not at all. Examples include illegal drugs and prostitution, with the former being some of the most prosecuted crimes. It is easy to hypothesize more instances in which we might enact criminal laws that differentiate in a similar manner.

One reason it is difficult to deflect blame from fossil fuel producers to fuel purchasers is that there is only one use for fossil fuels—the "globally catastrophic" one. The producers therefore cannot claim that they are innocent suppliers of a benign product that others have chosen to misuse. In this sense, the industry's sales are loosely analogous to those of illicit drugs, for which we commonly punish sellers much more than mere users.

Another reason why the fossil fuel industry is more culpable than its customers is that it has been deceiving them about the dangers of its products and the viability of alternatives for decades, as well as actively making it difficult for them to choose alternatives.

4. What legal basis, if any, supports exempting high-profile celebrities and politicians from prosecution under the same "climate homicide" culpability you propose for the energy industry? How do you respond to the argument that such exemptions undermine the fairness and applicability of your theory?

We discussed this at the hearing. I doubt any single individual's "carbon footprint" meets the criminal legal standard of substantially causing climate-related harms.

The fossil fuel industry comprises some of the largest, wealthiest, and most technically and scientifically adept corporations in the world. These companies have known for decades—for much, if not all, of that time, they have known better than nearly anyone else—that they were engaging in conduct that would cause "globally catastrophic" harm. They chose to defraud the public about this problem rather than work toward solutions and pursue safer lines of business. Collectively, the emissions from their products comprise a substantial proportion of all emissions since the beginning of the Industrial Revolution.

There is no comparison between their gross misconduct and the "carbon footprint" of any individual human.

Note that the very concept of a "carbon footprint" was invented by the industry—by British Petroleum, in 2004—to try to focus attention on individual consumer behavior and away from the industry's responsibility. Rather than meaningfully advance congressional knowledge, these questions just follow the industry's intended use of the concept.

5. Given that you testified that you used gasoline-powered transportation (Uber) to attend the hearing, what specific criteria would distinguish your own use of fossil fuels from the alleged culpability of the energy industry under your proposed theory of "climate homicide"?

We discussed this question at the hearing as well, and my answer to Question 4 above applies here.

There is more to say, however. Foremost, this line of questioning only demonstrates how deeply the fossil fuel industry, associated industries, and their political allies have structured our society to make it nearly impossible for ordinary people to avoid using fossil fuels. Far from implicating others in the industry's culpability, it only shows how much more culpable the industry is. To this day, the industry fights fuel economy standards, electric vehicle standards, electrification policies, renewable energy, and more. Senator Cruz recently voted for a bill that thwarts progress, innovation, and consumer choice in all these areas. In addition to locking people into buying more fossil fuels, that law gives more tax dollars in explicit subsidies to Big Oil, even though it is already one of the wealthiest and most powerful industries on Earth.

The question about my transportation was so predictable that I almost rode the Metro and walked a mile just so that I could say I did not use any fossil fuels when asked. But I was wearing a suit, it was nearly 100 degrees out—probably due to global warming from



fossil fuels—and there was a heavy thunderstorm almost immediately after the hearing. The only alternatives to a gas-powered car that Senator Cruz suggested were riding a bike or using “fairy dust.” He makes my point for me. Real alternatives to relying heavily on internal combustion engines exist, and they are excellent. But they are not readily available in ExxonMobil’s and Senator Cruz’s America.

My home is fossil free. You can bet that if it were realistic to travel fossil-free in all circumstances, I would do so. I invite Senator Cruz to help make it so instead of blocking progress toward better infrastructure and transportation.

#### IV. Questions on Threatening the Safety of Americans at Home and Abroad

Your organization, Public Citizen, has given prosecutors a blueprint for prosecuting “climate homicide” through the drafting and distribution of several preliminary prosecution memoranda. In one of those documents, Public Citizen wrote: “[i]ndeed, the authors hope this public memo can serve as a starting point for any prosecutor who wants to build a case to protect their constituents from the lethal climate disasters that are threatening public safety in communities across the country.”<sup>7</sup>

1. Do you advocate for the transition of scarce prosecutorial resources away from other law enforcement priorities to the prosecution of those allegedly responsible for “lethal climate disasters”? Do you believe that prosecutors should prioritize the prosecution of “climate homicide” over prosecution of violent crimes? If not, which crimes do you recommend prosecutors should deprioritize pursuing, so that they have sufficient resources to pursue “climate homicide” charges?

I have never advocated diverting prosecutorial resources. I believe prosecutors should have adequate resources to pursue all serious threats to the safety of their communities, including threats like climate change, which in some communities and years is responsible for significantly more death and destruction than violent crime.

2. Staunch advocates for decarbonization have observed that the U.S. Department of Defense is perhaps “the largest institutional user of petroleum . . . in the world.”<sup>8</sup>

<sup>7</sup> REGUNBERG ET AL., CHARGING BIG OIL WITH CLIMATE HOMICIDE: PRELIMINARY PROSECUTION MEMO FOR JULY 2023 HEAT WAVE 1 (June 2024), <https://www.citizen.org/wp-content/uploads/Climate-Homicide-Prosecution-Memo-Final.pdf>.

<sup>8</sup> See, e.g., Neta C. Crawford, *Pentagon Fuel Use, Climate Change, and the Costs of War*, BROWN UNIV. 2 (Nov. 13, 2019) <https://watson.brown.edu/costsofwar/files/cow/imce/papers/Penta->

Do you agree that criminalization of the supply of fossil fuels in this nation would have a substantial impact on the ability of this nation to wage war? How does the nation meet its fundamental obligation to defend its interests at home and abroad, in a criminal law regime where suppliers of fuel are prosecuted, fined, and incarcerated for supplying these goods for military use?

I do not agree. The military and its suppliers are permitted to do many things, and to use equipment and resources, that are unlawful for ordinary businesses or citizens.

Note also that the military is rightly attempting to reduce its fossil fuel use, as freedom from the logistical and cost burdens associated with fossil fuel use would make it stronger and nimbler.

## V. Questions on Finances; China

1. In your testimony, you opined on what you characterized as a dark money problem—people doing things they wouldn’t otherwise because they are getting paid. Senator Whitehouse in particular has expressed great consternation around the intrusion of money into policymaking. To what extent has any of your research or work, including your work on climate homicide, been funded or supported in any way by any of the following:

Senator Cruz raised the specter of dark money. The theme of the hearing was that the Chinese Communist Party is supposedly funding litigation against oil companies in the U.S.—a bizarre conspiracy theory for which the hearing failed to produce any evidence.

I merely pointed out that there is much more money on the side of fossil fuels than climate activists.

I also noted that one of the organizations Senator Cruz accused of brainwashing judges against oil has oil executives on its board and industry lawyers in leadership positions.

Rather than support the conspiracy theory, the hearing produced evidence against it. The oil industry’s influence is so broad and deep that, even when one attempts to craft a conspiracy theory about leftist climate activists undermining the industry on behalf of Chinese communists, one can scarcely help stumbling over industry-affiliated organizations (claiming nonsensically that they are brainwashing judges against their own board membership) and industry-generated concepts (like “carbon footprints”).

- a. Any entity associated with or funded by the Arabella network?

---

*gon%20Fuel%20Use%2C%20Climate%20Change%20and%20the%20Costs%20of%20War%20Revised%20November%202019%20Crawford.pdf.*

None.

- b. Any company, fund, organization, or person with commercial interests in so-called “green energy,” such as wind energy, solar energy, or electric vehicles, or which otherwise stands to benefit from any subsidies for “green energy” goods, services, or technologies?

None.

- c. Any company, fund, organization, or person based, in whole or in part, outside the United States or principally funded by sources outside the United States?

None.

- d. Any law firm pursuing any litigation seeking relief for harm allegedly associated with climate change?

None.

For each such answer above, please identify specifically the sources of support and the amounts received from each.

None. Can you say the same regarding support for your work and the fossil fuel industry? If you think funding sources matter, can you explain why they matter for other people and not for you?

Note also that pro-fossil-fuel organizations like the U.S. Chamber of Commerce, the American Petroleum Institute, the Heritage Foundation, and the Republican Attorneys General Association have steadfastly refused to disclose their funders, and the oil majors refuse to disclose whom they fund. You should pressure all of them to be more transparent.

2. Please articulate (citing evidence) the specific basis for your assertion during the hearing that “ExxonMobil last year [earned] almost a billion dollars in profits a day, every day.”

I was repeating what Senator Whitehouse stated. After the hearing, I noticed that we both misspoke: ExxonMobil had almost \$1 billion in revenue each day last year, not profits. This information is readily available on the internet.

I was contrasting this single company’s revenue with the chart that Senator Cruz held up, which aggregated the revenue of several environmental groups. ExxonMobil alone receives in a single day roughly *double* the revenue of all the groups on Senator Cruz’s

chart combined, over whatever period the chart covered. I do not know the period, but I imagine it was at least a year, if not multiple years.

Revenue is in fact a better figure to use for this comparison than profit, as the chart showed the organizations' revenues, not the net of their revenues minus expenses.

3. At hearing, you held up the People's Republic of China as a benchmark for progress in so-called clean energy, remarking that "China is ahead of the U.S. right now in manufacturing some aspects of renewable energy, solar panels, batteries, critical minerals." You went on to say, "I don't know why they'd want to stay full of fossil fuels."

I said, "I don't know why they'd want to stifle fossil fuels . . . ."

I did not "hold up" the People's Republic of China as anything. I was paraphrasing my understanding of Senator Cruz's view and asked him to correct me if I was wrong. He did not correct me. If I recall correctly, he nodded in the affirmative.

- a. Do you agree that China is the single largest contributor, on a nation-by-nation basis, to greenhouse gas emissions on an annual basis?

I agree. I'm not sure what you're driving at, but other facts may also be relevant when considering Chinese and U.S. emissions:

- i. Although China is currently the global leader in producing new emissions, the U.S. has produced the largest amount cumulatively throughout history. Cumulative emissions are what matter most, and they stay present in the atmosphere for a very long time. At the same time, the situation is now so dire that any additional emissions are deeply problematic as well.
  - ii. China is a large purchaser of U.S. oil and gas.
  - iii. A nontrivial proportion of China's emissions stem from producing and shipping goods to other nations, including the U.S.
- b. A recent article notes that "China's construction of new coal-power plants reached [a] 10-year high" in 2024.<sup>9</sup> Do you agree that China's aggressive expansion of its coal-fired power generation capacity is consistent with a status as an international leader in the fight against climate change?

---

<sup>9</sup> Anika Patel, *China's Construction of New Coal-Power Plants 'Reached 10-Year High' in 2024*, CARBON BRIEF (Feb. 13, 2025) <https://www.carbonbrief.org/chinas-construction-of-new-coal-power-plants-reached-10-year-high-in-2024/>.

Although China is ahead of the U.S. on certain technologies, I would not call China a leader in the fight against climate change. I don't know who would. But it is certainly ahead when it comes to installing new solar and wind. In 2024 alone, it installed more than twice the amount of total U.S. utility-scale solar capacity.<sup>10</sup>

I believe Senator Cruz agrees that China is ahead of the U.S. on some energy technologies that will help solve the climate crisis. As I understand it, that was the premise of this hearing—that China wants to stifle U.S. fossil fuels so that we will be dependent on Chinese renewable technologies.

I said it would be better to invest in those technologies than defund them and coddle the industries of the past. Doing the latter is like surrendering the space race to the Soviets instead of committing to reach the moon before the end of the decade, as President Kennedy did in 1962. It is emphatically not how we make America great. When China is installing more than twice as much solar energy in a single year as we have total in the U.S., we're not winning. We're losing.

While I do not consider China a leader, I fear it may overtake U.S. leadership in several domains if our country continues to be mismanaged by politicians who give strong preference to costly, dirty, dangerous legacy industries at the expense of innovating and leading on the energy of the future—as well as support other harmful policies like cutting back health care; reducing food support for American children; attacking our world-leading research universities; defunding and demoralizing critical public servants and experts across the U.S. government; transferring wealth from the working poor to the idle rich; undermining democracy and the rule of law; and deterring lawful immigration that has long provided America with critical infusions of new labor, energy, and ideas.

---

<sup>10</sup> U.S. Energy Information Administration, *China's Solar Capacity Installations Grew Rapidly in 2024*, Apr. 22, 2025, <https://www.eia.gov/todayinenergy/detail.php?id=65064>.



## A P P E N D I X

**The following submissions are available at:**

<https://www.govinfo.gov/content/pkg/CHRG-119shrg61887/pdf/CHRG-119shrg61887-add1.pdf>

**Submitted by Chair Cruz:**

|                                                  |    |
|--------------------------------------------------|----|
| Ferate, Anthony J., letter .....                 | 2  |
| Convert Chinese Communist Lawfare, posters ..... | 10 |
| IRS, statement .....                             | 14 |

**Submitted by Ranking Member Whitehouse:**

|                                                                                                       |    |
|-------------------------------------------------------------------------------------------------------|----|
| How much is your Texas home worth, <i>Houston Chronicle</i> .....                                     | 52 |
| Inside the costly new reality of insuring a home in Texas, <i>Houston Chronicle</i> .....             | 63 |
| See where extreme weather is pushing up home insurance costs in Texas, <i>Houston Chronicle</i> ..... | 85 |
| Texas has a home insurance crisis, <i>Houston Chronicle</i> .....                                     | 95 |

