

**SENATE . . . . . No. 599**

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_

PRESENTED BY:

***Cynthia Stone Creem***

\_\_\_\_\_

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to incentivize the adoption of local climate resilience policies.

\_\_\_\_\_

PETITION OF:

NAME:

*Cynthia Stone Creem*

DISTRICT/ADDRESS:

*Norfolk and Middlesex*

**SENATE . . . . . No. 599**

---

By Ms. Creem, a petition (accompanied by bill, Senate, No. 599) of Cynthia Stone Creem for legislation to incentivize the adoption of local climate resilience policies. Financial Services.

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

An Act to incentivize the adoption of local climate resilience policies.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 21N of the General Laws, as appearing in the 2020 Official Edition, is hereby  
2 amended by inserting the following new section:-

3 Section 12. (a) As used in this section, the following word shall have the following  
4 meanings:

5 “Program”, the municipal vulnerability preparedness plus grant program, or MVP plus  
6 program, established in this section.

7 (b) The secretary shall develop and support a municipal vulnerability preparedness plus  
8 grant program, to be known as the MVP plus program. Municipalities that are certified as MVP  
9 plus communities shall annually receive a share of the funds deposited into the Municipal  
10 Vulnerability Preparedness Trust Fund. Municipalities shall use their share of the funds for  
11 climate resilience projects approved by the executive office or to hire personnel who implement  
12 and manage climate resilience and sustainability projects; provided, that the project approval

13 process shall be designed to minimize burdens on municipalities and that projects not approved  
14 or denied within 30 days shall be deemed approved; provided further, that municipalities may  
15 use funds for regional projects or for personnel shared with one or more other municipalities; and  
16 provided further, that municipalities may use funds to contract with regional planning agencies  
17 or nonprofit watershed associations for the management of regional projects.

18 The executive office shall establish a formula for the disbursement of funds from the  
19 Municipal Vulnerability Preparedness Trust Fund to MVP plus-certified communities. Variables  
20 and weighted proportions of the formula shall include, but not be limited to: (i) the road mileage  
21 within the municipality; (ii) the total population of the municipality; (iii) the total number of  
22 employed individuals within the borders of the municipality; (iv) the number of environmental  
23 justice criteria the municipality meets; and (v) the proportion of the municipality that lies within  
24 an area that is designated as a special flood hazard area by the Federal Emergency Management  
25 Agency, or the proportion of the municipality that is vulnerable to flooding according to a  
26 different measure selected by the secretary that is at least as inclusive as the special flood hazard  
27 area designation.

28 (c) Municipalities seeking designation as an MVP plus community shall file an  
29 application in a form and manner to be prescribed by secretary. To qualify as a MVP plus  
30 community, a municipality shall: (1) complete the community-led resilience building process and  
31 vulnerability assessment described in section 11 of this chapter; (2) adopt the specialized stretch  
32 resilience code; and (3) adopt at least 4 of the following 6 policies and programs:

33 (i) a stormwater utility program to fund upgrades to stormwater infrastructure and other  
34 projects that mitigate flooding and protect natural bodies of water;

35 (ii) a program establishing climate resilience hubs, located in buildings such as schools,  
36 libraries, and community centers, to educate residents about extreme weather preparedness and  
37 the impacts of climate change and to provide shelter and assistance during weather-related  
38 emergencies;

39 (iii) a policy for the use of green infrastructure in appropriate public works and public  
40 infrastructure projects and a requirement that municipal employees who participate in the  
41 planning and design of public works and public infrastructure projects participate in a green  
42 infrastructure training program approved or designed by the secretary that includes at least 35  
43 hours of training on subjects including nature-based stormwater management practices and  
44 nature-based climate resilience strategies; provided, that members of local planning boards,  
45 conservation commissions, or other public bodies that participate in the planning and design of  
46 public works and public infrastructure projects but who are not full-time municipal employees  
47 may participate in an abbreviated green infrastructure training program approved or designed by  
48 the secretary that includes 5 hours of such training;

49 (iv) a floodplain overlay district that covers special flood hazard areas designated by the  
50 Federal Emergency Management Agency and other areas designated by the municipality that are  
51 projected to become vulnerable to flooding due to climate change and that imposes restrictions  
52 on construction, significant renovation, dumping, and filling that are designed to protect human  
53 life and property from the hazards of periodic flooding, preserve the natural flood control  
54 characteristics and the flood storage capacity of the floodplain, and preserve and maintain the  
55 groundwater table and water recharge areas within the floodplain;

56 (v) a tree ordinance or by-law that (A) requires the planting of trees to provide adequate  
57 shade to large paved areas such as parking lots; and (B) designates trees with a diameter at breast  
58 height of 8 or more inches as protected trees and prohibits the removal of protected trees under  
59 circumstances designated by the ordinance or by-law, unless the applicant plants native  
60 replacement trees or makes a contribution to a municipal tree preservation fund that is used to  
61 plant and care for trees; provided, that the ordinance or by-law shall require an applicant who  
62 plants native replacement trees to consult the municipal tree warden about which species of tree  
63 are suitable for planting and which locations are optimal for planting; and

64 (vi) an ordinance that, whenever permits require an analysis involving precipitation,  
65 requires the use of National Oceanic and Atmospheric Administration Atlas 14 precipitation  
66 estimates or the best available forward-looking precipitation estimates, as determined by the  
67 secretary.

68 (d) The executive office shall be responsible for the administration and oversight of the  
69 MVP plus program, including by: (1) adopting rules, regulations and guidelines for the  
70 administration and enforcement of this section, including, but not limited to, establishing  
71 application forms and procedures; (2) developing and disseminating model ordinances and by-  
72 laws that meet the requirements described in subsection (c) and making them available to public  
73 on the executive office's website; and (3) submitting an annual report by September 1 to the  
74 clerks of the senate and the house of representatives detailing the municipalities participating in  
75 the program, the expenditures of the program, and the projects supported by the program.

76 SECTION 2. Chapter 29 of the General Laws, as amended by section 13 of chapter 358  
77 of the acts of 2020, is hereby amended by inserting the following section:-

78 Section 2PPPPPP. (a) There shall be established and set upon the books of the  
79 commonwealth a separate fund to be known as the Municipal Vulnerability Preparedness Trust  
80 Fund. The secretary of energy and environmental affairs shall administer the fund.  
81 Notwithstanding any general or special law to the contrary, there shall be credited to the fund  
82 any revenue subject to appropriations or other money authorized by the general court and  
83 specifically designated to be credited to the fund and any gifts, grants, private contributions,  
84 investment income earned by the fund's assets and any designated funds from other sources. No  
85 expenditures from the fund shall cause the fund to be in deficiency at the close of the fiscal year.  
86 All available monies in the trust fund that are unexpended at the end of each fiscal year shall not  
87 revert to the General Fund, shall be available for expenditure in the subsequent fiscal year, and  
88 shall not be subject to section 5C; provided, that at least 50 percent of the funds deposited into  
89 the fund each fiscal year shall be disbursed according to the formula established pursuant to  
90 subsection (b) of section 12 of chapter 21N and remaining funds may be used for the grant  
91 program established in section 11 of chapter 21N.

92 Section 2 of chapter 21A of the General Laws, as so appearing, is hereby amended by  
93 inserting after clause (30) the following clause:

94 (31) develop and promulgate, in consultation with the executive office of housing and  
95 economic development and the board of building regulations and standards, as an appendix to  
96 the state building code and to the state residential code, a municipal opt-in specialized stretch  
97 resilience code that incorporates forward-looking data on climate risks including, but not limited  
98 to, inland and coastal flooding, extreme temperatures, wind, and changes in precipitation patterns  
99 and that is more stringent than the most recent edition of the international building code and  
100 international residential code. The code shall include, at a minimum, the following provisions

101 that go beyond those in the most recent edition of the state building code: (i) requirements as to  
102 freeboard and elevation above base flood elevation based on forward-looking climate data and  
103 future flood risks; (ii) requirements as to the location of utilities and other critical infrastructure  
104 within a structure; (iii) requirements as to wet and dry flood proofing of a structure; (iv)  
105 requirements as to habitable space and uses of a structure; (v) requirements as to points of  
106 ingress and egress; (vi) requirements as to ability to withstand extreme winds; and (vii)  
107 requirements as to ability to withstand extreme temperatures. The code shall also include any  
108 further language that is required to adequately prepare construction for future climate impacts  
109 including from wind, extreme temperature, and flooding.

110 SECTION 4. The secretary of the executive office of energy and environmental affairs  
111 shall form and consult with an advisory committee in the development of the municipal opt-in  
112 specialized stretch resilience code. The advisory committee shall consist of at least 17 members  
113 who shall include: the secretary of energy and environmental affairs or a designee, the chair of  
114 the board of building regulations and standards or a designee, the secretary of the executive  
115 office of housing and economic development or a designee, the commissioner of public health or  
116 a designee, the director of the Massachusetts emergency management agency or a designee, the  
117 director of the office of coastal zone management or a designee, 1 representative from an  
118 organization that represents or serves an environmental justice community, 1 representative from  
119 an affordable housing organization, 1 representative from a regional planning organization, 1  
120 member with professional expertise in climate science and data, 1 member who is a professional  
121 planner with experience in climate adaptation and resilience, 1 member who is a certified  
122 building inspector in a city or town, 1 member who is a municipal planner, 1 member who is a  
123 certified civil engineer, 1 member who is a certified coastal engineer, 1 representative from the

124 insurance industry, and 1 representative from the real estate development industry. The advisory  
125 committee shall be formed within 3 months of the effective date of this act and shall produce  
126 recommendations on requirements for the code within 12 months of the effective date of this act.  
127 The stretch resilience code shall be promulgated not later than 18 after the effective date of this  
128 act. The secretary shall, in consultation with the board of building regulations and standards,  
129 review and update the stretch resilience code every three years.

130 SECTION 5. Section 96 of chapter 143, as so appearing, is hereby amended by striking  
131 the second paragraph and inserting in place thereof the following:-

132 For the purposes of this section, “specialized codes” shall include, but not be limited to,  
133 the specialized stretch energy code developed and promulgated by the department of energy  
134 resources, the specialized stretch resilience code developed and promulgated by the secretary of  
135 energy and environmental affairs, the state plumbing code, electrical code, architectural barriers  
136 regulations, fire safety code, fire prevention regulations, sheet metal regulations and elevator  
137 regulations.

138 SECTION 6. Section 100 of said chapter 143, as so appearing, is hereby amended by  
139 striking the second paragraph and inserting in place thereof the following:-

140 Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act  
141 by any state or local agency or any person or state or local agency charged with the  
142 administration or enforcement of the state building code or any of its rules and regulations,  
143 except any specialized codes as described in section 96, other than the specialized stretch energy  
144 code developed and promulgated by the department of energy resources and the specialized  
145 stretch resilience code developed and promulgated by the secretary of energy and environmental



146    affairs, may within forty-five days after the service of notice thereof appeal from such  
147    interpretation, order, requirement, direction, or failure to act to the appeals board. Appeals  
148    hereunder shall be on forms provided by the appeals board and shall be accompanied by such fee  
149    as said appeals board may determine.