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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HEALTH AND SAFETY -- ENERGIZE RHODE ISLAND: CLEAN ENERGY INVESTMENT AND CARBON PRICING ACT OF 2017

Introduced By: Representatives Regunberg, Carson, Handy, Keable, and Donovan

Date Introduced: February 03, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 82.1

4 ENERGIZE RHODE ISLAND: CLEAN ENERGY INVESTMENT AND CARBON PRICING

5 ACT OF 2017

6 **23-82.1-1. Short title.**

7 This chapter shall be known and may be cited as the "Energize Rhode Island: Clean
8 Energy Investment and Carbon Pricing Act of 2017".

9 **23-82.1-2. Legislative findings.**

10 The general assembly finds and declares that:

11 (1) Climate change increases risks to public health, including health impacts from
12 extreme heat events, storms and floods, decreased air quality, and illnesses transmitted from food,
13 water, and disease carriers, as reported by the Rhode Island department of health;

14 (2) Climate change increases public safety risks and threats to our private property and
15 public infrastructure, including risks associated with storms, floods, and sea level rise, and these
16 risks have been recognized by the Rhode Island emergency management agency as warranting
17 specific attention;

18 (3) In order to promote the general welfare of the people of the state, Rhode Island must

1 strengthen its economy and make it more resilient over the long term in order to avoid the
2 economic consequences of climate change, which will require initiatives that encourage the
3 development and use of innovative technologies and practices;

4 (4) Economic consequences, including widespread damage to seaside communities
5 following Hurricane Sandy, the lobster population reaching historic lows, and both coastal and
6 river flooding leading to increased costs for and closures of businesses across the state, have been
7 well-documented, and failing to address these risks will only lead to more severe and persistent
8 impacts upon our local economy;

9 (5) Carbon pricing has been established as the most cost-effective and efficient market-
10 based means to achieve carbon emissions reductions;

11 (6) Rhode Island spends over three billion dollars (\$3,000,000,000) annually on fossil
12 fuels, which are a volatile resource from out-of-state, whereas carbon pricing mechanisms have
13 been shown to be effective in creating jobs and stimulating the local economy;

14 (7) The clean energy sector has proven to be one of the fastest growing segments of
15 Rhode Island's economy, currently providing nearly fifteen thousand (15,000) jobs and growing
16 at a rate much higher than the overall state economy; increased investment will provide even
17 more jobs in addition to a higher quality of life;

18 (8) Climate change poses substantial risks to Rhode Island's ecology and natural
19 resources, and a fundamental responsibility of the state is to secure the right of the people "to the
20 use and enjoyment of the natural resources of the state with due regard for the preservation of
21 their values;"

22 (9) In 2014, the general assembly enacted the "Resilient Rhode Island Act", which set
23 goals for reducing "greenhouse gas emissions" in Rhode Island, and established affirmative
24 obligations to meet these statutory goals.

25 **23-82.1-3. Legislative intent.**

26 It is the intent of the general assembly to:

27 (1) Create a clean energy and jobs fund to foster innovative practices, which will
28 strengthen Rhode Island's position in advancing efficient use of energy, make Rhode Island a
29 nationally recognized leader in energy efficiency, stimulate job creation, and enhance innovation-
30 based economic growth;

31 (2) Price carbon as an incentive to reduce carbon (greenhouse gas) emissions from use of
32 carbon based fuels by residents and businesses in Rhode Island;

33 (3) Provide access to energy efficiency, energy conservation, and renewable energy
34 programs for low income families and small businesses;

1 (4) Reduce public health, public safety, economic, and natural resource impairment risks
2 associated with climate change; and

3 (5) Meet the state emissions goals for 2035 as set in 2014 by the "Resilient Rhode Island
4 Act".

5 **23-82.1-4. Definitions.**

6 As used in this chapter, the following words and terms shall have the following meanings
7 unless the context clearly indicates another or different meaning or intent:

8 (1) "Carbon dioxide equivalent ("CO₂e") means a unit of measure used to compare the
9 emissions from various greenhouse gases based upon their global warming potential;

10 (2) "Carbon price" means the fee imposed by this chapter;

11 (3) "Clean energy and jobs fund" means the fund established under this chapter;

12 (4) "Commission" means the public utilities commission, set forth in chapter 1 of title 39;

13 (5) "Electricity fuel mix" means the mix of fuels for any one year period used to create
14 electricity by generators within the control area of ISO-NE;

15 (6) "Employer" means a person, firm, corporation, partnership, association or public
16 body, whether for-profit or not-for-profit, that is located in Rhode Island and employs Rhode
17 Island residents;

18 (7) "Fossil fuel" means coal, oil, natural gas, propane, or any other petroleum product.
19 "Fossil fuel" does not include renewable biomass or waste vegetable oil biodiesel;

20 (8) "Independent System Operator-New England" or "ISO-NE" means the regional
21 transmission organization for New England licensed by the Federal Energy Regulatory
22 Commission pursuant to the Federal Power Act (16 U.S.C. Chapter 12);

23 (9) "Low-income residential property" means a dwelling unit owned or occupied by a
24 household eligible to receive benefits under the low-income home energy assistance program
25 (LIHEAP) as set forth in §39-1-27.12; in instances where a premises contains multiple dwelling
26 units, the entire premises shall be considered a low-income residential property if fifty percent
27 (50%) or more of the dwelling units are occupied by LIHEAP eligible households;

28 (10) "Person" means any individual, partnership, corporation, company, society, or
29 association, whether created for-profit or not-for-profit purposes;

30 (11) "Petroleum product" means all petroleum derivatives, whether in bond or not, which
31 are commonly burned to produce heat, electricity, or motion, or which are commonly processed
32 to produce synthetic gas for burning, including without limitation, propane, gasoline, unleaded
33 gasoline, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and number 4, number 5 and
34 residual oil for utility and non-utility uses, but not including, petroleum feedstocks to plastics

1 production or other manufacturing;

2 (12) "Resident" means a person eighteen (18) years of age or older who is a resident of
3 Rhode Island. All persons registered to vote in Rhode Island or all persons eighteen (18) years of
4 age or older who hold a valid Rhode Island driver's license or photo ID shall be presumptively
5 considered residents for the purposes of this chapter. Persons who do not meet the requirements
6 for presumptive eligibility may establish eligibility by presenting other acceptable documentation;
7 and

8 (13) "Small business property" means the premises, whether owned or leased, of any
9 employer, other than a public body, that is a small business as defined by the United States Small
10 Business Administration.

11 **23-82.1-5. Carbon pricing.**

12 (a) A fee shall be collected on all fossil fuels within the state for purposes of distribution
13 or use within the state, at the rate specified in subsection (b) of this section, in the manner
14 specified in subsections (e) through (l) of this section.

15 (b) Commencing January 1, 2018, and continuing through December 31, 2019, a fee shall
16 be charged at a rate of fifteen dollars (\$15.00) per ton of CO₂e that would be released by burning
17 the fuel sold. Commencing January 1, 2020 and thereafter, the rate in every fiscal year shall be
18 the rate in the previous fiscal year plus five (5) real 2016 dollars, as calculated before the
19 beginning of each fiscal year. In addition, the fee shall increase in accordance with inflation, as
20 measured by the United States Bureau of Labor Statistics Consumer Price Index or, if that index
21 is not available, another index adopted by the director of revenue.

22 (c) The director of revenue shall calculate and publish the rate in current dollars for each
23 year, by December 1.

24 (d) In sales where greenhouse gas emissions from the fossil fuels are to be permanently
25 sequestered and not released into the atmosphere, charges on the fossil fuels shall be reduced by
26 the director of revenue in proportion to the amount of CO₂e that is to be sequestered. The office
27 of energy resources shall ensure that in such cases, the emissions are actually sequestered and not
28 released into the atmosphere.

29 (e) The fee shall be collected on all petroleum products at their first point of sale within
30 the state for consumption or distribution within the state.

31 (f) All suppliers of electricity, including all electric distribution companies operating in
32 the state and all competitive suppliers of electricity to end users, shall pay the fee on behalf of all
33 of their electricity customers on the basis of each kilowatt-hour of electricity used by each
34 distribution customer. The per kilowatt-hour fee to be paid by the supplier of electricity will be

1 calculated in the following manner:

2 (1) The fee shall be calculated on an annual basis, based on the electricity fuel mix as
3 defined above.

4 (2) The CO₂e of every kilowatt-hour of electricity shall be determined by taking the
5 weighted average of the natural gas, coal, and oil portions of the fuel mix and multiplying each of
6 those portions separately by the amount of CO₂e emissions created per kilowatt-hour of
7 electricity produced by each such fuel, as those carbon intensity levels are from time to time
8 determined by the United States Energy Information Administration (EIA).

9 (3) The supplier of electricity shall deduct from the fee calculated by subsections (f)(1)
10 and (f)(2) of this section an amount equal to the amount it paid for the same year on account of
11 regional greenhouse gas initiative (RGGI) clearing auctions; provided, however, that the amount
12 so deducted may be no greater than the total amount of the fee as calculated in subsections (f)(1)
13 and (f)(2) of this section. The electricity supplier shall also deduct from the fee calculated an
14 amount equal to the amount it may have paid for NE-GIS certificates as defined in §39-26-2.

15 (g) On April 1 of each year, each supplier of electricity shall file with the commission the
16 result of its proposed calculation for the year beginning the following July 1. The filing will
17 include sufficient supporting data to enable the commission to determine whether the calculation
18 by the supplier of electricity was made fully in accordance with subsection (f) of this section.
19 Upon receipt of the calculation by the supplier of electricity, the commission shall open a docket.
20 The sole purpose of the docket shall be for the commission to determine whether the calculation
21 by the supplier of electricity was made fully in accordance with subsection (f) of this section. If
22 the commission determines that the calculation by the supplier of electricity was made fully in
23 accordance with subsection (f) of this section, the commission shall, no later than May 15 of the
24 same year, issue its order approving the calculation. If the commission determines that the
25 calculation by the supplier of electricity does not fully comply with subsection (f) of this section,
26 the commission shall issue an order stating clearly the errors that were made by the supplier of
27 electricity. In that event, the supplier of electricity shall have twenty-one (21) days to make a
28 compliance filing with the commission, correcting the errors identified in the commission's order.

29 (h) Any person that generates more than twenty-five thousand kilowatt-hours (25,000
30 KWh) of electricity for on-site use using any combination of one or more fossil fuels shall be
31 obligated to pay the carbon price, which shall be calculated by multiplying the quantity of each
32 separate fossil fuel combusted to produce electricity by the CO₂e emissions of each separate fuel
33 so combusted. Within one year following the date of enactment of this chapter, the director of
34 revenue shall issue rules, pursuant to chapter 35 of title 42, for the regular and efficient

1 calculation, assessment, and collection of these carbon price amounts. Any fee already paid on
2 said fuel pursuant to this section shall be deducted from the fee that would otherwise be due
3 under this subsection.

4 (i) The local distribution company for natural gas shall pay the fee on behalf of all of its
5 distribution customers. The fee shall be calculated by multiplying the number of cubic feet of
6 natural gas used by each customer by the amount of CO₂e released by burning one cubic foot of
7 natural gas, as that value is from time to time determined by the United States Energy
8 Information Administration (EIA).

9 (j) The office of energy resources shall determine the amount of CO₂e released in the
10 form of escaped methane due to the extraction, transport, or distribution of natural gas before the
11 point of consumption in Rhode Island, and shall add an additional charge to the carbon price for
12 all natural gas or natural-gas-based electricity, based on the rate specified in subsection (b) of this
13 section. This fee shall be published no later than December 10 of each year.

14 (k) Entities whose primary purpose is to provide public transportation that enables energy
15 efficiency in the state economy shall not be subject to the cost of any fee set forth in this section
16 for the portion of their business that provides public transport.

17 (l) The collection of the fee herein described shall commence upon the promulgation of
18 all necessary rules for its collection, but not later than January 1, 2019. The fee established by this
19 chapter shall be reduced by the amount of any fee or payment due under any federal law that sets
20 a carbon price on the same fossil fuels for the same year as described in this chapter; provided,
21 however, that such reduction shall not be in an amount of less than zero.

22 **23-82.1-6. Clean energy and jobs fund.**

23 (a) There is hereby established a restricted receipt account in the general fund to be
24 known as the clean energy and jobs fund. All fees collected under this chapter shall be deposited
25 in the clean energy and jobs fund.

26 (b) Unexpended balances remaining in the clean energy and jobs fund shall not be subject
27 to the ten percent (10%) charge. Unexpended balances and any earnings thereon shall not revert
28 to the general fund but shall remain solely in the clean energy and jobs fund. The clean energy
29 and jobs fund shall be used solely to carry out the provisions of this chapter, and to help residents
30 and employers transition to cleaner energy options and mitigate any potential economic harm
31 from the carbon price imposed by this chapter.

32 (c) Proceeds from the clean energy and jobs fund may only be used for the purposes
33 described in §23-82.1-7. Proceeds shall be available for the purposes described in §23-82.1-7
34 without appropriation.

1 **23-82.1-7. Clean energy and jobs fund uses.**

2 (a) The department of revenue shall use the funds from the clean energy and jobs fund as
3 follows:

4 (1) Thirty percent (30%) shall be used to provide direct dividends to employers in the
5 state, in the manner specified in subsections (b) and (d) of this section;

6 (2) Forty percent (40%) shall be used to provide direct dividends to residents in the state,
7 in the manner specified in subsections (b) and (c) of this section;

8 (3) Twenty-five percent (25%) shall go to climate resilience, energy efficiency, energy
9 conservation, and renewable energy programs that benefit low-income residential properties and
10 small business properties, where there have been low levels of participation in energy efficiency
11 and renewable energy programs, to be administered under the auspices of the Rhode Island
12 infrastructure bank in accordance with rules jointly promulgated by the office of energy resources
13 and the Rhode Island infrastructure bank;

14 (4) Up to five percent (5%) shall be used to pay for administrative costs associated with
15 collecting the charges, administering the clean energy fund, and carrying out other responsibilities
16 assigned to the office of energy resources and department of revenue under this chapter. Any
17 unexpended revenue from this five percent (5%) shall be reallocated to the low-income and small
18 business program, pursuant to §23-82.1-7(a)(3). From the period commencing on the effective
19 date of this chapter through the implementation of the regulations necessary for the collection of
20 fees provided for under this chapter, the administrative allocation shall be the actual
21 administrative cost, up to ten percent (10%) of the revenue deposited into the clean energy fund,
22 and the amount of revenue directed to the weatherization program shall be reduced by the amount
23 above five percent (5%) that is used for administrative costs.

24 (b) The dividends specified in subsection (a) of this section shall be implemented, at the
25 discretion of the director of revenue, through a refundable credit added to tax returns for residents
26 and employers that file tax returns. For residents and employers who do not file taxes, dividends
27 will be granted in the form of direct checks. The director of revenue shall make every reasonable
28 effort to ensure that every resident and employer, regardless of whether or not a particular
29 resident or employer files tax returns or actually owes taxes, including not-for-profit
30 organizations and government entities, receives a dividend. Dividends shall be calculated based
31 on the estimated increased total costs of energy in Rhode Island and distributed at the beginning
32 of each year. The first set of dividends shall be distributed by December 31, 2018, based on
33 estimated increased costs from the period of January 1, 2018 through December 31, 2018, which
34 may be subject to cost reconciliation based on actual total costs by June 30, 2019.

1 (c) Every resident shall receive an equal dividend amount. Every resident who is the head
2 of a household with children or dependents under the age of eighteen (18) shall have the dividend
3 increased based on the number of children or dependents under the age of eighteen (18) in
4 residence, with each child adding the value of one equal dividend amount.

5 (d) Every employer shall receive a dividend proportional, in terms of full-time equivalent
6 employees, to the employer's share of total employment in the state.

7 (e) The director of revenue shall issue a public report, submitted to the governor, the
8 speaker of the house, and the senate president, by December 31 of each year commencing with
9 2018, stating the expenditures from the clean energy fund for the most recently completed fiscal
10 year and plans to distribute the balance remaining in the fund, if any.

11 **23-82.1-8. Promulgation of rules.**

12 The department of revenue, office of energy resources, and any other state agency or
13 instrumentality designated by this chapter or by the director of administration to perform
14 functions or duties to effectuate the purposes and functions of this chapter are hereby authorized
15 to adopt, in accordance with the provisions of chapter 35 of title 42, administer, and enforce any
16 rules necessary or convenient to carry out the purposes of this chapter.

17 **23-82.1-9. Construction of provisions.**

18 The provisions of this chapter shall be liberally construed for the accomplishment of their
19 purposes.

20 SECTION 2. This act shall take effect thirty (30) days after the commissioner of the
21 office of energy resources certifies in writing to the general assembly that another state in New
22 England which borders Rhode Island and has an aggregate population of at least five million
23 (5,000,000) persons based on 2010 census figures, has enacted a carbon pricing fee or tax that is
24 consistent with the provisions of this act, specifically that a fee shall be charged at a rate of at
25 least fifteen dollars (\$15.00) per ton of CO_{2e} that would be released by burning fossil fuels sold.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- ENERGIZE RHODE ISLAND: CLEAN ENERGY
INVESTMENT AND CARBON PRICING ACT OF 2017

1 This act would establish a fee on companies that sell fossil fuels in Rhode Island, paid at
2 the point of sale within the state for consumption or distribution within the state. It would also
3 establish a "Clean Energy and Jobs Fund" to disburse the collected funds. The funds would be
4 disbursed through rebates to all residents and businesses in the state as well as allocated to
5 climate resilience, energy efficiency, energy conservation, and renewable energy programs that
6 benefit Rhode Islanders, particularly low income residential properties and small business
7 properties.

8 This act would take effect thirty (30) days after the commissioner of the office of energy
9 resources certifies in writing to the general assembly that another state in New England which
10 borders Rhode Island and has an aggregate population of at least five million (5,000,000) persons
11 based on 2010 census figures, has enacted a carbon pricing fee or tax that is consistent with the
12 provisions of this act, specifically that a fee shall be charged at a rate of at least fifteen dollars
13 (\$15.00) per ton of CO_{2e} that would be released by burning fossil fuels sold.

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