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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO HEALTH AND SAFETY -- ENERGY INDEPENDENCE

Introduced By: Representatives Handy, Ackerman, Gallison, Palangio, and Cimini

Date Introduced: February 28, 2013

Referred To: House Environment and Natural Resources

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:

CHAPTER 88

RHODE ISLAND ENERGY INDEPENDENCE AND CLIMATE SOLUTIONS ACT

5 **23-88-1. Short title.** -- This chapter shall be known and may be cited as the "Rhode
6 Island Energy Independence and Climate Solutions Act."

7 **23-88-2. Legislative findings.** -- It is hereby found and declared by the general assembly
8 as follows:

9 (1) Global warming poses a serious threat to the environment, economic well-being,
10 public health, and natural resources of Rhode Island. Scientists predict global warming will
11 exacerbate air quality problems, decrease or eliminate the habitat of indigenous plants and
12 animals, trigger accelerated beach erosion and sea level rise resulting in the displacement of
13 businesses, residences and key infrastructure like bridges and drinking water and wastewater
14 treatment plants, damage marine and freshwater ecosystems and the natural environment, and
15 increase the variety and incidence of infectious diseases, asthma, and other human health-related
16 problems.

17 (2) Global warming will also have measurable and detrimental effects on key sectors of
18 Rhode Island's economy including agriculture, tourism and recreational and commercial fishing.

19 (3) Because greenhouse gas emissions come almost exclusively from burning fossil fuels,

1 reducing emissions of greenhouse gasses in Rhode Island will promote energy independence,
2 strengthening our economy, creating local jobs, and keeping our energy dollars here at home.

3 (4) Rhode Island has shown leadership on energy conservation and environmental
4 stewardship efforts, including the areas of air quality protection, energy efficiency, renewable
5 energy, natural resource conservation, and global warming standards for passenger vehicles and
6 electricity consumption. The program established by this chapter will continue a tradition of
7 environmental leadership by bringing Rhode Island to the forefront of national and international
8 efforts to reduce global warming emissions and aligning Rhode Island's global warming policy
9 with the steps scientists say are necessary to address the problem of global warming.

10 (5) In 2001 the New England governors and Eastern Canadian premiers adopted a climate
11 change action plan setting targets for reductions in greenhouse gas emissions for the short and
12 long-term. Although the action plan did result in some activity to reduce emissions, neither Rhode
13 Island nor the region are on track to achieve the voluntary limits set in the action plan, and in
14 most states green house gas emissions are continuing to increase. The general assembly
15 recognizes that voluntary limits have clearly not resulted in the reductions necessary to avoid the
16 most severe damage to our state and our planet from global warming.

17 (6) The state of Rhode Island recognizes that national and international action will be
18 necessary to address the issue of global warming. However, the state of Rhode Island recognizes
19 that it has a moral obligation and an economic interest in doing its part to achieve the emission
20 reductions that scientists say are necessary to address local as well as global impacts of warming.
21 Moreover, Rhode Island recognizes that action taken by the state to reduce emissions contributing
22 to global warming will have far-reaching effects by encouraging other states and the federal
23 government to take action. Rhode Island has worked and will continue to work with other states
24 to address the problem of global warming, and hereby joins with other states that have adopted
25 enforceable limits on global warming pollution.

26 (7) By exercising a leadership role, Rhode Island will position its economy, educational
27 institutions, technology centers, financial institutions, and businesses to benefit from national and
28 international efforts to reduce global warming pollution. More importantly, investing in the
29 development of innovative and pioneering technologies will assist Rhode Island in achieving the
30 2024 and 2050 statewide limits on global warming pollution established by this chapter and will
31 provide an opportunity for the state to take a global economic and technological leadership role in
32 reducing global warming pollution.

33 (8) It is the intent of the legislature that the department coordinate with other state
34 agencies and entities, as well as consult with the environmental justice community, industry

1 sectors, business groups, academic institutions, environmental organizations, and other
2 stakeholders in implementing the provisions of this chapter.

3 (9) It is the intent of the legislature that the department and other agencies and entities
4 that take action to meet the statewide greenhouse gas emission limits established pursuant to this
5 chapter do so in a manner that minimizes long-term costs and maximizes long-term benefits for
6 Rhode Island's economy, improves and modernizes Rhode Island's energy infrastructure,
7 improves electric system reliability, takes advantage of the opportunity for growth of renewable,
8 efficiency and other innovative businesses in Rhode Island, and maximizes additional
9 environmental and economic benefits for Rhode Island.

10 **23-88-3. Definitions. – As used in this chapter:**

11 (1) "Carbon dioxide equivalent" means the amount of carbon dioxide by weight that
12 would produce the same global warming impact as the given weight of another greenhouse gas,
13 based on the best available science, including from the intergovernmental panel on climate
14 change.

15 (2) "Cost effective" means the cost per unit of reduced emissions of greenhouse gases
16 expressed in carbon dioxide equivalents.

17 (3) "Department" means the Rhode Island department of environmental management.

18 (4) "Direct emission reduction" means a greenhouse gas emission reduction made by a
19 greenhouse gas emission source at that source.

20 (5) "Emissions reduction measure" means programs, measures and standards authorized
21 pursuant to this chapter, applicable to sources or categories of sources that are designed to reduce
22 emissions of greenhouse gases.

23 (6) "Greenhouse gas" or "greenhouse gases" includes all of the following gases: carbon
24 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride
25 and any additional substances that the department determines are significant contributors to
26 global warming.

27 (7) "Greenhouse gas emission source" or "source" means any source, or category of
28 sources, of greenhouse gas emissions whose emissions are at a level of significance, as
29 determined by the department, that its participation in the program established under this chapter
30 will enable the department to effectively reduce greenhouse gas emissions and monitor
31 compliance with the statewide greenhouse gas emissions limit.

32 (8) "Leakage" means an increase in greenhouse gas emissions related to domestic power
33 use from generation sources located outside of the state that are not subject to state, interstate or
34 regional greenhouse gas emissions limits that apply to generation sources located within the state.

1 (9) "Office" means the Rhode Island office of energy resources.

2 (10) "State funds" means direct or indirect expenditure of state monies, including any tax
3 reductions, tax stabilization or other state financial benefits.

4 (11) "Statewide greenhouse gas emissions" means the total annual emissions of
5 greenhouse gases in the state. In the case of electrical generation, statewide greenhouse gas
6 emissions includes all emissions of greenhouse gases from the generation of electricity delivered
7 to and consumed in Rhode Island, accounting for transmission and distribution line losses,
8 whether the electricity is generated in state or imported. Statewide emissions shall be expressed in
9 tons of carbon dioxide equivalents.

10 (12) "Statewide greenhouse gas emissions limit" or "statewide emissions limit" means the
11 maximum allowable level of statewide greenhouse gas emissions in a given year, as determined
12 by the department pursuant to section 23-88-5.

13 (13) "1990 level of statewide greenhouse gas emissions" means the statewide greenhouse
14 gas emissions for 1990 as established by the department under section 23-88-5.

15 (14) "2019 limit" means the level of greenhouse gas emissions for 2019 established by
16 the department under section 23-88-5.

17 (15) "2024 limit" means the level of greenhouse gas emissions equal to the twenty
18 percent (20%) less than the 1990 level of statewide greenhouse gas emissions, established by the
19 department under section 23-88-5.

20 (16) "2050 limit" means the level of greenhouse gas emissions equal to eighty percent
21 (80%) less than the 1990 level of statewide greenhouse gas emissions, established by the
22 department under section 23-88-5.

23 **23-88-4. Mandatory greenhouse gas reporting.** – (a) No later than January 30, 2015,
24 the department shall adopt rules and regulations that require the annual reporting and verification
25 of greenhouse gas emissions and that provide for the monitoring and enforcement of compliance
26 with the reporting and verification requirements.

27 (b) The rules and regulations adopted pursuant to this section shall:

28 (1) Require the monitoring and annual reporting of greenhouse gas emissions from
29 greenhouse gas emission sources, beginning with the sources or categories of sources that
30 contribute most to statewide greenhouse gas emissions;

31 (2) Include greenhouse gas emissions from the generation of electricity that is consumed
32 in the state, regardless of whether it is generated in state, including transmission and distribution
33 line losses;

34 (3) Ensure rigorous and consistent accounting of emissions, and provide reporting tools

1 and formats to ensure collection of necessary data; and

2 (4) Ensure that greenhouse gas emission sources maintain comprehensive records of all
3 reported greenhouse gas emissions.

4 (c) The department shall:

5 (1) Periodically review the requirements in rules promulgated under this section and
6 update the rules, as necessary;

7 (2) Review existing and proposed international, federal, regional and state greenhouse
8 gas emission reporting programs and make reasonable efforts to promote consistency among the
9 programs established pursuant to this section and other programs, and to streamline reporting
10 requirements on greenhouse gas emission sources; and

11 (3) Require reporting in the form and format that is most useful in allowing the
12 department to track emissions and to prepare the reports required in section 23-88-10.

13 (d) The department shall consider, on an annual basis, requiring the expansion of
14 reporting to other sources of direct or indirect emissions. A decision for or against an expansion
15 of reporting and an explanation of such decision shall be included in the report required pursuant
16 to section 23-88-10.

17 **23-88-5. Statewide greenhouse gas emissions limits. --** (a) Statewide greenhouse gas
18 emissions limits shall be established by the department and implemented according to the
19 following schedule:

20 (1) No later than January 1, 2019, statewide greenhouse gas emissions shall be reduced to
21 or below the 2019 limit;

22 (2) No later than January 1, 2024, statewide greenhouse gas emissions shall be reduced to
23 or below the 2024 limit;

24 (3) No later than January 1, 2050, statewide greenhouse gas emissions shall be reduced to
25 or below the 2050 limit and shall not exceed that level thereafter.

26 (b) The department, in consultation with the office of energy resources, shall also adopt
27 strategies for achieving the 2019 limit, the 2024 limit and the 2050 limit.

28 **23-88-6. Greenhouse gas emissions reductions. --** (a)(1) Strategies and plans. - In
29 consultation with the office of energy resources, the department shall prepare and approve, no
30 later than January 1, 2016, a strategy for achieving the 2019 limit.

31 (2) In consultation with the office of energy resources, the department shall prepare and
32 approve, no later than January 1, 2017, a strategy for achieving the 2024 limit.

33 (3) In consultation with the office of energy resources, the department shall prepare and
34 approve, no later than January 1, 2018, a strategy for achieving the 2050 limit.

1 (4) The strategies provided shall describe proposed legislation and regulations from the
2 department, the department of transportation, the office, and any other state agencies or entities
3 from which action is needed to achieve the goals, set forth in the chapter, as well as other
4 emission reduction measures to be taken by state entities as necessary and appropriate to achieve
5 these goals. The strategies shall include regulations, economic incentives and/or other enforceable
6 mechanisms to reduce vehicle miles traveled.

7 (5) The department and office shall provide opportunities for public input into the
8 strategies and for comment on the proposed goals before the goals and strategies are approved.

9 (6) By December 1, 2013 The office of energy resources shall recommend whether, and
10 if so in what form, an interstate compact within the New England ISO and other interested states
11 shall be entered into and that would promote collective and cooperative interstate activity to
12 promote the objectives of this chapter.

13 (7) The department and other state agencies taking action under this chapter shall seek to
14 identify the most effective strategies and methods to reduce greenhouse gases, to manage
15 greenhouse gas control programs, and to facilitate the development of integrated regional,
16 national, and international greenhouse gas reduction programs, and for this purpose shall look to
17 examples from other states and other nations.

18 (8) The department shall consult with the public utilities commission and the office of
19 energy resources on the elements of the plan that pertain to energy related matters, including the
20 consumption of electricity, development of renewable energy sources, any standards or
21 requirements that are based on the amounts of electricity that an electric provider sells to retail
22 customers, or the provision of reliable and affordable electrical service to ensure that the
23 greenhouse gas emission reduction activities in the plan are additional and not duplicative. The
24 office of energy resources shall develop and/or incorporate such elements into the energy element
25 of the state guide plan it develops and incorporate the emissions reductions goals of this chapter,
26 as established in section 23-88-5, in the energy planning goals.

27 (9) The department shall consult with the Rhode Island public transit authority, the
28 department of transportation, statewide planning and the economic development corporation on
29 the elements of the plan that pertain to transportation, particularly the reduction of vehicle miles
30 traveled.

31 (10) In developing its plans, the department shall take into account the relative
32 contribution of each source or source category to statewide greenhouse gas emissions, and shall
33 recommend a de minimus threshold of greenhouse gas emissions below which emission reduction
34 requirements will not apply.

1 (11) In developing its plans, the department shall identify opportunities for emission
2 reductions measures from all verifiable voluntary actions.

3 (12) In adopting plans and regulations pursuant to this section, to the extent feasible and
4 in furtherance of achieving the statewide greenhouse gas emissions limits, the department and all
5 other state agencies or entities taking action under this chapter, shall do all of the following:

6 (i) Design the regulations, including distribution of emissions allowances where
7 appropriate, in a manner that is equitable, seeks to minimize long-term costs and maximize the
8 total benefits to Rhode Island, and encourages early action to reduce greenhouse gas emissions;

9 (ii) Ensure that activities undertaken to comply with the regulations do not
10 disproportionately impact low-income communities;

11 (iii) Ensure that sufficient means are provided to assist low-income residents to achieve
12 energy efficiency savings, particularly residents of high energy use buildings;

13 (iv) Ensure that entities that have voluntarily reduced their greenhouse gas emissions
14 prior to the implementation of this section receive appropriate credit for early voluntary
15 reductions;

16 (v) Ensure that activities undertaken pursuant to the regulations complement, and do not
17 interfere with, efforts to achieve and maintain federal and state ambient air quality standards and
18 to reduce toxic air contaminant emissions;

19 (vi) Consider overall societal benefits, including reductions in other air pollutants,
20 diversification of energy sources, and other benefits to the economy, environment, and public
21 health;

22 (vii) Ensure that the rules, regulations, programs, mechanisms and incentives, to the
23 extent applicable and feasible, direct private and public investment toward the most
24 disadvantaged communities in Rhode Island and provide an opportunity for small businesses and
25 community institutions to participate in and benefit from statewide efforts to reduce greenhouse
26 gas emissions;

27 (viii) Minimize the administrative burden of implementing and complying with these
28 regulations;

29 (ix) Minimize leakage;

30 (x) Consider the significance of the contribution of each source or category of sources to
31 statewide emissions of greenhouse gases; and

32 (xi) Ensure that any such mechanism will be designed to work alongside but in no way
33 undermine any regional greenhouse gas emissions markets in which the state, suppliers of
34 electricity, generators of electricity, green power providers, or industries within the state may be

1 participating.

2 (13) The department of administration, through or with the office of energy resources,
3 shall, as needed, provide the general assembly with proposals for draft legislation of changes to
4 existing law needed to implement the strategies developed under section 23-88-5, to bring this
5 statute into conformance with federal law and/or regulations, or to respond to changing global
6 climate conditions.

7 (14) Nothing in this chapter shall restrict the department from providing early reduction
8 credit where appropriate, nor shall this chapter be seen as preventing any more stringent limits on
9 emissions, as science shows to be prudent.

10 (b) Other greenhouse gas reduction provisions. -

11 (1) No later than January 1, 2015, the Rhode Island department of administration shall
12 develop guidelines for all state agencies that shall be used by those agencies to consider and
13 implement strategies to reduce their greenhouse gas emissions.

14 (2) All works, projects or activities funded in whole or in part with state funds, including
15 all state transportation projects, that are reasonably likely to result in significant direct or indirect
16 emissions of greenhouse gases shall take all reasonable actions to minimize energy consumed in
17 the construction and operation of the project during its expected life, and to minimize emissions
18 from vehicle travel that will result from the construction and operation of the project, with a goal
19 of net reductions in greenhouse gas emissions from all such projects. The department shall define,
20 no later than June 30, 2014, after public notice and comment, what shall be considered significant
21 for purposes of this section. The proponent of the works, projects or activities subject to this
22 subsection shall file with the department, prior to construction of the project, a certification that
23 the project has complied with this subsection and describing the actions taken to comply. Nothing
24 in this section shall prevent the department or any other state department or entity from requiring
25 additional actions to reduce direct or indirect greenhouse gas emissions.

26 (3) In connection with the consideration and issuance of permits, licenses and other
27 administrative approvals and decisions by the department, the Rhode Island department of
28 transportation, and the Rhode Island coastal resources management council, reasonably
29 foreseeable contributions to global warming, such as greenhouse gas emissions, and reasonably
30 foreseeable effects of global warming, such as predicted sea level rise, shall be taken into
31 consideration in deciding whether to issue the requested permit, license or approval, what
32 alternatives may be preferable, and what conditions may be imposed on any such permit, license
33 or approval. In considering contributions to and effects of the action for which approval is
34 requested, the approving agency shall consider both the individual application and the cumulative

1 effects of other past, present and reasonably foreseeable future actions.

2 (4) No later than January 1, 2016, the state planning council shall adopt in the state guide
3 plan an element on reducing greenhouse gases and shall revise such other elements in the state
4 guide plan as necessary to achieve the purposes of this act, and shall provide guidance to cities
5 and towns on developing comprehensive plans that conform to that element and that implement
6 the state's goals for reducing greenhouse gasses.

7 **23-88-7. Economic development.** – (a) No later than January 1, 2014, the governor shall
8 appoint an economic and technology advancement advisory committee, which shall include
9 representatives from business, labor unions, academic institutions, renewable energy developers,
10 energy efficiency and innovative energy products providers, and others as the governor deems
11 appropriate, to be chaired by the economic development corporation, to advise the governor, the
12 department and the working group on activities that will facilitate investment in and
13 implementation of technological research and development opportunities, including, but not
14 limited to, identifying new technologies, research, demonstration projects, and funding
15 opportunities, developing state, national and international partnerships and technology transfer
16 opportunities, and identifying and assessing research and advanced technology investment and
17 incentive opportunities that will assist in the reduction of greenhouse gas emissions, and
18 development of greenhouse gas reduction employment in the state.

19 (b) The economic and technology advancement advisory committee shall recommend
20 programs and incentives to foster energy efficiency and renewable energy workforce
21 development and training programs, to increase the number of trained skilled workers in the
22 economic sectors of emerging clean energy, renewable energy, energy efficiency, and demand
23 resources. The programs and incentives shall be designed to promote growth of the clean energy
24 economy by helping build a pipeline of well-trained, skilled workers and addressing emerging
25 skills gaps in both clean energy development and adoption.

26 **23-88-8. Market-based compliance mechanisms.** – (a) The department and other state
27 agencies may include in the regulations adopted pursuant to this chapter the use of market-based
28 compliance mechanisms to comply with the regulations.

29 (b) Prior to the inclusion of any market-based compliance mechanism in the regulations,
30 to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions
31 limit, the department or other state agencies shall do all of the following:

32 (1) Consider the potential for direct, indirect, and cumulative emission impacts from
33 these mechanisms, including localized impacts in communities that are already adversely
34 impacted by air pollution;

1 (2) Design any market-based compliance mechanism to prevent any increase in the
2 emissions of toxic air contaminants or criteria air pollutants, with particular attention paid to
3 emissions of nitrous oxide, sulfur dioxide, particulate matter and mercury; and

4 (3) Maximize additional environmental, economic, and health benefits for Rhode Island,
5 as appropriate.

6 (c) The department may adopt regulations governing how market-based compliance
7 mechanisms may be used by regulated entities subject to greenhouse gas emission limits and
8 mandatory emission reporting requirements to achieve compliance with their greenhouse gas
9 emissions limits.

10 (d) Nothing in this chapter shall confer any authority on the department or office or any
11 other state agency to make less stringent any programs administered by other state agencies for
12 the reduction of greenhouse gas emissions.

13 **23-88-9.Enforcement.--** (a) The department and other state agencies adopting
14 regulations pursuant to this chapter shall monitor compliance with and enforce any rule,
15 regulation, order, emission limitation, emission reduction measure, or market-based compliance
16 mechanism adopted by the department or other state agency pursuant to this chapter.

17 (b) In the instance of any violation of any rule, regulation, order, emission limitation,
18 emissions reduction measure, or other measure adopted by the department or other state agency
19 pursuant to this chapter, the violating entity shall be subject to those penalties set forth in that
20 agency's regulations.

21 (c) The plans adopted by the department under section 23-88-6 may include proposed
22 legislation or regulations to tighten enforcement sanctions for violations of rules adopted under
23 this chapter in furtherance of the goals of this chapter.

24 **23-88-10. Reporting. –** (a) No later than December 1, 2015, and biennially thereafter, the
25 department, in coordination with the office of energy resources, shall prepare and transmit, in
26 writing, a report to the governor, to the general treasurer, and to the general assembly, on the
27 status of the greenhouse gas emissions monitoring and reporting program established pursuant to
28 this chapter, the current level of greenhouse gas emissions in the state, and the progress made
29 toward compliance with the 2019 limit, the 2024, limit and the 2050 limit established pursuant to
30 this chapter. The report shall also include updated and comparative inventories of statewide
31 greenhouse gas emissions.

32 (b) No later than December 1, 2015, and annually thereafter, the department shall prepare
33 and transmit, in writing, a report to the governor and to the general assembly on the state's
34 progress in meeting the deadlines established by this chapter. Such report shall include a

1 summary of the approved plans established under section 23-88-6 of this chapter and the
2 requirements for each state agency to adopt regulations or other programs pursuant to those plans,
3 and shall attach a report from each such agency describing its compliance with the requirements
4 of the plans.

5 **23-88-11. Additional provisions.** – (a) Any regulation adopted by the department or any
6 other state agency pursuant to this chapter shall ensure that the greenhouse gas emission
7 reductions achieved are real, permanent, quantifiable, verifiable, and enforceable.

8 (b) Nothing in this chapter shall relieve any person, entity, or public agency of
9 compliance with other applicable federal, state, or local laws or regulations, including state air
10 and water quality requirements, and other requirements for protecting public health or the
11 environment.

12 (c) The provisions of this chapter are severable. If any provision of this chapter or its
13 application is held invalid, that invalidity shall not affect other provisions or applications that can
14 be given effect without the invalid provision or application.

15 (d) Nothing in this chapter shall limit the existing authority of a state entity to adopt and
16 implement greenhouse gas emissions reduction measures.

17 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO HEALTH AND SAFETY -- ENERGY INDEPENDENCE

- 1 This act would create the Rhode Island energy independence and climate solutions act
- 2 which would attempt to reduce greenhouse gases and thus retard global warming.
- 3 This act would take effect upon passage.

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