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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO HEALTH AND SAFETY -- ENERGIZE RHODE ISLAND: CLEAN ENERGY  
INVESTMENT AND CARBON PRICING ACT OF 2018

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

Date Introduced: February 01, 2018

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: ECONOMIC AND CLIMATE RESILIENCE ACT OF 2018

5 **23-82.1-1. Short title.**

6 This chapter shall be known and may be cited as the "Energize Rhode Island: Economic  
7 and Climate Resilience Act of 2018".

8 **23-82.1-2. Legislative findings.**

9 The general assembly finds and declares that:

10 (1) In order to promote the general welfare of the people of the state, Rhode Island must  
11 strengthen its economy and make it more resilient over the long term in order to avoid the  
12 economic consequences of climate change, which will require initiatives that encourage the  
13 development and use of innovative policies, technologies and practices;

14 (2) Rhode Island is committed to the principles of the Paris climate agreement, and  
15 acknowledges that immediate actions to reduce greenhouse gas emissions, such as those set forth  
16 in this chapter, are essential to protect our community, our environment, and our economy;

17 (3) In 2014, the general assembly enacted the resilient Rhode Island act, which set goals  
18 for reducing "greenhouse gas emissions" in Rhode Island, and established affirmative obligations

1 to meet these statutory goals:

2 (4) Low-income, people of color, handicapped and elderly residents of Rhode Island  
3 suffer most from climate-related disasters:

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

7 (6) Climate change increases public safety risks and threats to our private property and  
8 public infrastructure, including risks associated with storms, floods, and sea level rise, and these  
9 risks have been recognized by several branches of the Rhode Island government as warranting  
10 specific attention:

11 (7) Climate change has severe economic consequences, including widespread damage to  
12 communities and businesses from catastrophic weather events such as Hurricane Sandy or coastal  
13 and river flooding, and severe reductions in winter flounder, lobster, and other marine  
14 populations, and failing to address these risks will only lead to more severe and persistent impacts  
15 upon our local economy:

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

19 (9) Reducing energy waste and demand for fossil fuels can stabilize the state's economy  
20 and reduce economic uncertainty and risk due to natural gas, gasoline, diesel and heating oil price  
21 volatility:

22 (10) Carbon pricing is a cost-effective and efficient market-based means to achieve  
23 significant carbon emissions reductions:

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

28 (12) Climate change poses substantial risks to Rhode Island's ecology and natural  
29 resources, and pursuant to article 1, section 17 of the state constitution, it is the responsibility of  
30 the state to secure the right of the people "to the use and enjoyment of the natural resources of the  
31 state with due regard for the preservation of their values:"

32 (13) In the absence of federal action, states cooperating regionally are effective at  
33 reducing emissions and spurring renewable energy initiatives, as demonstrated by the success of  
34 the Regional Greenhouse Gas Initiative (RGGI), which has reduced overall emissions and

1 strengthened the economies of participating states.

2 **23-82.1-3. Legislative intent.**

3 It is the intent of the general assembly to:

4 (1) Establish a separate and restricted receipt account entitled the Energize Rhode Island  
5 Fund for creating employment and helping workers transition to low carbon industries, improving  
6 energy efficiency, advancing adoption of clean energy technology, establishing programs to  
7 safeguard low-income residents, and protecting businesses that are high energy users;

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

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

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

14 (5) Meet or exceed the state emissions goals for 2035 as set by the resilient Rhode Island  
15 act of 2014; and

16 (6) Promote regional cooperation to reduce emissions, build renewable energy and energy  
17 efficiency programs, and strengthen the economy.

18 **23-82.1-4. Definitions.**

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

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

23 (2) "Carbon price" means the fee imposed by this chapter.

24 (3) "Climate resilience" means, according to the Intergovernmental Panel on Climate  
25 Change (IPCC), "the ability of a social, ecological, or socio-ecological system and its components  
26 to anticipate, reduce, accommodate, or recover from the effects of a hazardous event or trend in a  
27 timely and efficient manner." Such economic and social stability in the face of climate-related  
28 disasters can be achieved through preparation, soft and hard infrastructure, emergency warning  
29 systems, and recovery resources, as well as through quickly decarbonizing the economy to lead  
30 other jurisdictions in avoiding the worst impacts which come with accumulation of greenhouse  
31 gases in the atmosphere and oceans.

32 (4) "Commission" means the public utilities commission, set forth in § 39-1-3(a).

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

1           (6) "Employer" means a person, firm, corporation, partnership, association or public  
2 body, whether for-profit or not-for-profit, that is located in Rhode Island and employs Rhode  
3 Island residents.

4           (7) "Energize Rhode Island fund" means the fund established under this chapter.

5           (8) "Fossil fuel" means coal, oil, natural gas, propane, and any petroleum product. Fossil  
6 fuels do not include renewable biomass or waste vegetable oil biodiesel.

7           (9) "Implementation date" means and refers to January 1 of the year following initial  
8 regional carbon fee enactment.

9           (10) "Independent system operator-New England" or "ISO-NE" means the regional  
10 transmission organization for New England licensed by the federal energy regulatory commission  
11 pursuant to the Federal Power Act (16 U.S.C. 12).

12           (11) "Initial regional carbon fee enactment" means the enactment of a fee of at least five  
13 dollars (\$5.00) per metric ton of carbon by the legislatures of at least three (3) states: Rhode  
14 Island, Massachusetts, and one or more additional states in the regional greenhouse gas initiative  
15 (RGGI).

16           (12) "Low-income residential property" means a dwelling unit owned or occupied by a  
17 household eligible to receive benefits under the low-income energy assistance program  
18 (LIHEAP) as set forth in § 39-1-27.12; in instances where a premises contains multiple dwelling  
19 units, the entire premises shall be considered a low-income residential property if fifty percent  
20 (50%) or more of the dwelling units are occupied by LIHEAP-eligible households.

21           (13) "Person" means any individual, partnership, corporation, company, society, or  
22 association, whether created for-profit or nonprofit purposes.

23           (14) "Petroleum product" means all petroleum derivatives, whether in bond or not, which  
24 are commonly burned to produce heat, electricity, or motion or which are commonly processed to  
25 produce synthetic gas for burning, including without limitation, propane, gasoline, unleaded  
26 gasoline, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and number 4, number 5 and  
27 residual oil for utility and non-utility uses.

28           (15) "Resident" means a person eighteen (18) years of age or older who is a resident of  
29 Rhode Island. All persons registered to vote in Rhode Island or all persons eighteen (18) years of  
30 age or older who hold a valid Rhode Island driver's license or photo ID shall be presumptively  
31 considered residents for the purposes of this chapter. Persons who do not meet the requirements  
32 for presumptive eligibility may establish eligibility by presenting other acceptable documentation.

33           (16) "Small business property" means the premises, whether owned or leased, of any  
34 employer, other than a public body, that is a small business as defined by the United States Small

1 Business Administration.

2 **23-82.1-5. Carbon Pricing.**

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

6 (b) Commencing on the implementation date, a fee shall be charged at a rate of fifteen  
7 dollars (\$15.00) per metric ton of CO<sub>2</sub>e that would be released by burning the fuel sold. In each  
8 subsequent fiscal year, the rate shall be the rate of the previous fiscal year plus five dollars  
9 (\$5.00), until it reaches a rate of fifty dollars (\$50.00) per ton. After the rate reaches fifty dollars  
10 (\$50.00) per ton, in each subsequent fiscal year the rate will increase in accordance with inflation,  
11 as measured by Rhode Island's Cost-of-Living-Adjustments calculated using the United States  
12 Bureau of Labor Statistics Consumer Price Index or, if that index is not available, another index  
13 adopted by the director of revenue.

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

16 (d) In sales where greenhouse gas emissions from the fossil fuels are to be permanently  
17 sequestered and not released into the atmosphere, charges on the fossil fuels shall be reduced by  
18 the director of revenue in proportion to the amount of CO<sub>2</sub>e that is to be sequestered. The office  
19 of energy resources shall ensure that in such cases, the emissions are actually sequestered and not  
20 released into the atmosphere.

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

23 (f) All suppliers of electricity, including all electric distribution companies operating in  
24 the state and all competitive suppliers of electricity to end users, shall pay the fee on behalf of all  
25 of their electricity customers on the basis of each kilowatt-hour of electricity used by each  
26 distribution customer. The per kilowatt-hour fee to be paid by the supplier of electricity will be  
27 calculated in the following manner:

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

30 (2) The CO<sub>2</sub>e of every kilowatt hour of electricity shall be determined by taking the  
31 weighted average of the natural gas, coal, and oil portions of the fuel mix and multiplying each of  
32 those portions separately by the amount of CO<sub>2</sub>e emissions created per kilowatt hour of  
33 electricity produced by each such fuel, as those carbon intensity levels are from time to time  
34 determined by the United States Energy Information Administration (EIA).

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

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

21           (h) Any entity which generates more than twenty-five thousand (25,000KWH) kilowatt  
22 hours of electricity for on-site use using any combination of one or more fossil fuels shall be  
23 obligated to pay the carbon price, which shall be calculated by multiplying the quantity of each  
24 separate fossil fuel combusted to produce electricity by the CO<sub>2</sub>e emissions of each separate fuel  
25 so combusted. Within one year following the date of enactment of this chapter, the director of  
26 revenue shall issue rules, pursuant to chapter 35 of title 42, for the regular and efficient  
27 calculation, assessment, and collection of these carbon price amounts. Any fee already paid on  
28 said fuel pursuant to § 23-82.1-5 shall be deducted from the fee that would otherwise be due  
29 under this subsection (f)(1) of this section.

30           (i) The local distribution company for natural gas shall pay the fee on behalf of all of its  
31 distribution customers. The fee shall be calculated by multiplying the number of cubic feet of  
32 natural gas used by each customer by the amount of CO<sub>2</sub>e released by burning one cubic foot of  
33 natural gas, as that value is from time to time determined by the United States Energy  
34 Information Administration (EIA).

1 (j) The office of energy resources shall determine the amount of CO<sub>2</sub>e released in the  
2 form of escaped methane due to the extraction, transport, or distribution of natural gas before the  
3 point of consumption in Rhode Island, and shall add an additional charge to the carbon price for  
4 all natural gas or natural-gas-based electricity, based on the rate specified in subsection (b) of this  
5 section. This fee shall be published no later than December 10 of each year.

6 (k) Government agencies whose primary purpose is to provide public transportation by  
7 bus, van, rail, ferry or other means that reduce the amount of driving by private motor vehicles  
8 shall be exempt from the fees set forth in § 23-82.15-5 for the portion of their business that  
9 provides public transport.

10 (l) The fee established by this chapter shall be reduced by the amount of any fee or  
11 payment due under any federal law or § 23-82.1-5 that sets a carbon price on the same fossil fuels  
12 for the same year as described in this chapter; provided, however that such reduction shall not be  
13 in an amount of less than zero.

14 **23-82.1-6. Energize Rhode Island fund.**

15 (a) There is hereby established a restricted receipt account in the general fund to be  
16 known as the energize Rhode Island fund. All fees collected under this chapter shall be deposited  
17 in the energize Rhode Island fund.

18 (b) Unexpended balances and any earnings thereon shall not revert to the general fund  
19 but shall remain solely in the energize Rhode Island fund. The energize Rhode Island fund shall  
20 be used solely to carry out the provisions of this chapter.

21 (c) Proceeds from the energize Rhode Island fund may only be used for the purposes  
22 described in § 23-82.1-7. Proceeds shall be available for the purposes described in § 23-82.1-7  
23 without appropriation.

24 (d) An independent energize Rhode Island fund oversight board shall be created, with  
25 members chosen by the governor, with the advice and consent of the senate, to include nine (9)  
26 members with one member representing each of the following interests: small business, large  
27 business, labor, environmental justice, scientific community, low-income, historically  
28 marginalized groups, community development organizations, and the transportation sector.  
29 Members shall have staggered three (3) year terms. The director of the RI Infrastructure Bank and  
30 the commissioner of the office of energy resources shall serve as permanent ex officio nonvoting  
31 members. The board shall elect a chair from its membership. The oversight board shall convene  
32 quarterly to carry out roles as specified by subsection (d)(1) of this section with the support of the  
33 office of energy resources.

34 (1) The energize Rhode Island fund oversight board and the office of energy resources

1 (OER) shall prepare and deliver an annual report to the house committee on the environment and  
2 natural resources, the senate committee on the environment and agriculture, the house committee  
3 on finance, and the senate committee on finance on or before May 1, one year after the  
4 commencement of the fee, and annually on or before May 1 thereafter, which will:

5 (i) Recommend changes to the fee in order to account for greenhouse gas emissions  
6 associated with the full lifecycle of all fossil fuels, including emissions prior and subsequent to  
7 combustion associated with extraction, transportation, or disposal in order to help the state meet  
8 its greenhouse gas reductions targets;

9 (ii) Recommend changes to the logistics of dividend distribution as currently specified in  
10 §§ 23-82.1-7(b) and (c) in order to more fully account for equity in the needs of residents and  
11 consumers, especially low-income residents.

12 (2) Other sources: In addition to the revenue generated by § 23-82.1-5, the board may:

13 (i) Accept and administer grants from both public and private sources for the carrying out  
14 of any of its functions, which loans or grants shall not be expended for other than the purposes for  
15 which provided;

16 (ii) apply for, accept and expend allocations, grants and bequests of funds for the purpose  
17 of carrying out the responsibilities of the board.

18 **23-82.1-7. Energize Rhode Island fund uses.**

19 (a) The Rhode Island infrastructure bank, under the auspices of the energize Rhode Island  
20 fund oversight board pursuant to § 23-82.1-6(e), shall use the funds from the energize Rhode  
21 Island fund as follows:

22 (1) Twenty-eight percent (28%) shall go to support climate resilience, renewable energy,  
23 energy efficiency, and climate adaptation in Rhode Island,

24 (i) At least one-third (1/3) of funding from the twenty-eight percent (28%) of the energize  
25 Rhode Island fund that will be distributed to resilience and renewable energy programs shall be  
26 distributed to neighborhoods, municipalities, groups of municipalities, or regional agencies  
27 representing neighborhoods or municipalities whose median incomes per household are in the  
28 lowest third of median incomes for all municipalities in the state. For purposes of this section, to  
29 calculate the lowest third, the median income of each municipality shall be weighted by the  
30 number of households in the municipality. When possible, distribution shall prioritize assisting  
31 municipalities with existing climate action plans in renewable energy and efficiency projects. A  
32 training session for municipal planners relating to implementing resilience and renewable energy  
33 programs shall be a prerequisite for the municipalities to receive funds.

34 (2) Thirty percent (30%) shall be used to provide direct dividends to employers in the

1 state, in the manner specified in subsections (b) and (d) of this section;

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

4 (4) Up to two percent (2%) shall be used to pay for administrative costs associated with  
5 collecting the charges, administering the energize Rhode Island fund, and carrying out other  
6 responsibilities assigned to the office of energy resources and department of revenue under this  
7 chapter. Any unexpended revenue from this two percent (2%) shall be reallocated to climate  
8 resilience and renewable energy programs, pursuant to § 23-82.1-7(1). None of said proceeds  
9 shall fund government operations or obligations other than to pay for reasonable administrative  
10 costs which should not be higher than two percent (2%) of revenue collected. From the period  
11 commencing on the effective date of this chapter through the implementation of the regulations  
12 necessary for the collection of fees provided for under this chapter, the administrative allocation  
13 shall be the actual administrative cost, and the amount of revenue directed to the climate  
14 resilience and renewable energy program shall be reduced by the amount above two percent (2%)  
15 that is used for administrative costs.

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

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

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

33 (e) Residents and businesses will be given the option to opt out of receiving all or part of  
34 their dividend payment to allow assistance to low-income residents so they do not experience

1 increased energy costs.

2 (f) The director of revenue shall issue a public report, submitted to the governor, the  
3 speaker of the house, and the senate president, by December 31 of each year commencing with  
4 2018, stating the expenditures from the energize Rhode Island fund for the most recently  
5 completed fiscal year and plans to distribute the balance remaining in the fund, if any.

6 **23-28.1-8. Promulgation of rules.**

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

12 **23-28.1-9. Construction of provisions.**

13 The provisions of this chapter shall be liberally construed for the accomplishment of their  
14 purposes.

15 **23-28.1-10. Implementation.**

16 (a) The implementation of the provisions of this chapter shall commence upon initial  
17 regional carbon fee enactment.

18 (b) If the federal government passes a carbon pricing law at a similar level to this  
19 legislation, the federal tax will supersede the state law.

20 SECTION 2. This act shall take effect July 1, 2018, or on the date of its enactment,  
21 whichever date is the later.

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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 2018

\*\*\*

1           This act would establish a fee on companies that sell fossil fuels for consumption or  
2 distribution within the state. This act would also establish an "energize Rhode Island fund" to  
3 disburse the collected funds. The funds would be disbursed through rebates to all residents and  
4 businesses in the state as well as allocated to climate resilience, renewable energy, energy  
5 efficiency, and climate adaptation programs that benefit Rhode Islands, including low-income  
6 residents and small businesses.

7           This act would take effect July 1, 2018, or on the date of its enactment, whichever date is  
8 the later.

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