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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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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 2016

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

Date Introduced: January 27, 2016

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:

3 CHAPTER 82.1

4 ENERGIZE RHODE ISLAND: CLEAN ENERGY INVESTMENT AND CARBON PRICING

5 ACT OF 2016

6 **23-82.1-1. Short title.** -- This chapter shall be known and may be cited as the "Energize  
7 Rhode Island: Clean Energy Investment and Carbon Pricing Act of 2016".

8 **23-82.1-2. Legislative findings.** -- The general assembly finds and declares that:

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

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

16 (3) In order to promote the general welfare of the people of the state, Rhode Island must  
17 strengthen its economy and make it more resilient over the long term in order to avoid the  
18 economic consequences of climate change, which will require initiatives that encourage the

1 development and use of innovative technologies and practices;

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

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

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

12 (7) The clean energy sector has proven to be one of the fastest growing segments of  
13 Rhode Island's economy, currently providing nearly ten thousand (10,000) jobs and growing at a  
14 rate much higher than the overall state economy; increased investment will provide even more  
15 jobs in addition to a higher quality of life;

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

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

23 **23-82.1-3. Legislative intent. -- It is the intent of the general assembly to:**

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

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

30 (3) Provide access to weatherization and renewable energy for low-income families and  
31 small businesses;

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

34 (5) Meet the state emissions goals for 2035 as set by the "Resilient Rhode Island Act" in

1 2014.

2 **23-82.1-4. Definitions.** -- As used in this chapter, the following words and terms shall  
3 have the following meanings unless the context shall clearly indicate another or different meaning  
4 or intent:

5 (1) "Carbon dioxide equivalent" ("CO<sub>2</sub>e") means a unit of measure used to compare the  
6 emissions from various greenhouse gases based upon their global warming potential.

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

8 (3) "Clean energy and jobs fund" means the fund established under this chapter.

9 (4) "Commission" means the public utilities commission, set forth in chapter 39 of title  
10 39.

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

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

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

18 (8) "Independent System Operator-New England" or "ISO-NE" means the regional  
19 transmission organization for New England licensed by the federal energy regulatory commission  
20 pursuant to the Federal Power Act (16 U.S.C.12).

21 (9) "Low-income residential property" means a dwelling unit owned or occupied by a  
22 household eligible to receive benefits under the low income energy assistance program (LIHEAP)  
23 as set forth in §39-1-27.1; in instances where a premises contains multiple dwelling units, the  
24 entire premises shall be considered a low-income residential property if fifty percent (50%) or  
25 more of the dwelling units are occupied by LIHEAP-eligible households.

26 (10) "Person" means any individual, partnership, corporation, company, society, or  
27 association, whether created for profit or nonprofit purposes.

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

33 (12) "Resident" means a person eighteen (18) years of age or older who is a resident of  
34 Rhode Island. All persons registered to vote in Rhode Island or all persons eighteen (18) years of

1 age or older who hold a valid Rhode Island driver's license or photo ID shall be presumptively  
2 considered residents for the purposes of this chapter. Persons who do not meet the requirements  
3 for presumptive eligibility may establish eligibility by presenting other acceptable documentation.

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

7 **23-82.1-5. Carbon pricing.** -- (a) A fee shall be collected on all fossil fuels within the  
8 state for purposes of distribution or use within the state, at the rate specified in subsection (b) of  
9 this section, in the manner specified in subsections (e) through (l) of this section.

10 (b) Commencing January 1, 2017 through December 31, 2018, a fee shall be charged at a  
11 rate of fifteen dollars (\$15.00) per ton of CO<sub>2</sub>e that would be released by burning the fuel sold.  
12 Commencing January 1, 2019 and thereafter, the fee shall increase in accordance with inflation,  
13 as measured by the United States Bureau of Labor Statistics Consumer Price Index or, if that  
14 index is not available, another index adopted by the director of revenue.

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

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

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

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

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

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

1 determined by the United States Energy Information Administration (EIA).

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

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

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

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

1 Information Administration (EIA).

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

7 (k) Entities whose primary purpose is to provide public transportation that enables energy  
8 efficiency in the state economy shall not be subject to the cost of any fee set forth in §23-82.5-5  
9 for the portion of their business that provides public transport.

10 (l) The collection of the fee herein described shall commence upon the promulgation of  
11 all necessary rules for its collection but not later than January 1, 2018. The fee established by this  
12 chapter shall be reduced by the amount of any fee or payment due under any federal law that sets  
13 a carbon price on the same fossil fuels for the same year as described in this chapter, provided  
14 however that such reduction shall not be in an amount of less than zero.

15 **23-82.1-6. Clean energy and jobs fund. --** (a) There is hereby established a restricted  
16 receipt account in the general fund to be known as the clean energy and jobs fund. All fees  
17 collected under this chapter shall be deposited in the clean energy and jobs fund.

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

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

27 **23-82.1-7. Clean energy and jobs fund uses. --** (a) The department of revenue shall use  
28 the funds from the clean energy and jobs as follows:

29 (1) Twenty-five percent (25%) shall go to climate resilience, energy efficiency, energy  
30 conservation, and renewable energy programs that benefit low-income residential properties and  
31 small business properties, where there have been low levels of participation in energy efficiency  
32 and renewable energy programs, to be administered under the auspices of the state infrastructure  
33 bank in accordance with rules jointly promulgated by the office of energy resources and the  
34 Rhode Island infrastructure bank;

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

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

5           (4) Up to five percent (5%) shall be used to pay for administrative costs associated with  
6 collecting the charges, administering the clean energy fund, and carrying out other responsibilities  
7 assigned to the office of energy resources and department of revenue under this chapter. Any  
8 unexpended revenue from this five percent (5%) shall be reallocated to the low-income and small  
9 business program, pursuant to §23-82.1-7(1). From the period commencing on the effective date  
10 of this chapter through the implementation of the regulations necessary for the collection of fees  
11 provided for under this chapter, the administrative allocation shall be the actual administrative  
12 cost, up to ten percent (10%) of the revenue deposited into the clean energy fund, and the amount  
13 of revenue directed to the weatherization program shall be reduced by the amount above five  
14 percent (5%) that is used for administrative costs.

15           (b) The dividends specified above shall be implemented, at the discretion of the director  
16 of revenue, through a refundable credit added to tax returns for residents and employers that file  
17 tax returns. For residents and employers who do not file taxes, dividends will be granted in the  
18 form of direct checks. The director of revenue shall make every reasonable effort to ensure that  
19 every resident and employer, regardless of whether or not a particular resident or employer files  
20 tax returns or actually owes taxes, including not-for-profit organizations and government entities,  
21 receives a dividend. Dividends will be calculated based on estimated increased costs and  
22 distributed at the beginning of each year. The first set of dividends shall be distributed by  
23 December 31, 2017, based on estimated increased costs from the period of January 1, 2017  
24 through December 31, 2017, which may be subject to cost reconciliation based on actual total  
25 costs by June 30, 2018.

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

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

32           (e) The director of revenue shall issue a public report, submitted to the governor, the  
33 speaker of the house, and the senate president, by December 31 of each year commencing with  
34 2017, stating the expenditures from the clean energy fund for the most recently completed fiscal

1 [year and plans to distribute the balance remaining in the fund, if any.](#)

2       **23-82.1-8. Promulgation of rules.** -- [The department of revenue, office of energy](#)  
3 [resources, and any other state agency or instrumentality designated by this chapter or by the](#)  
4 [director of administration to perform functions or duties to effectuate the purposes and functions](#)  
5 [of this chapter are hereby authorized to adopt, in accordance with the provisions of chapter 35 of](#)  
6 [title 42, administer, and enforce any rules necessary or convenient to carry out the purposes of](#)  
7 [this chapter.](#)

8       **23-82.1-9. Construction of provisions.** -- [The provisions of this chapter shall be](#)  
9 [liberally construed for the accomplishment of their purposes](#)

10       SECTION 2. This act shall take effect on July 1, 2016, or on the date of its enactment  
11 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 2016

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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 on July 1, 2016, or on the date of its enactment, whichever date  
9 is the later.

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