SENATE DOCKET, NO. 285 FILED ON: 1/14/2015

SENATE . . . . . No. 1747

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Barrett

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

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

An Act combating climate change.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Michael J. Barrett	*Third Middlesex*	
Chris Walsh	*6th Middlesex*	
Kay Khan	*11th Middlesex*	
Frank I. Smizik	*15th Norfolk*	
Michelle M. DuBois	*10th Plymouth*	
Mary S. Keefe	*15th Worcester*	
Carmine L. Gentile	*13th Middlesex*	
Jay D. Livingstone	*8th Suffolk*	
Ruth B. Balser	*12th Middlesex*	
Sean Garballey	*23rd Middlesex*	
Jason M. Lewis	*Fifth Middlesex*	
Cory Atkins	*14th Middlesex*	
Denise Provost	*27th Middlesex*	
Daniel A. Wolf	*Cape and Islands*	
John W. Scibak	*2nd Hampshire*	
William N. Brownsberger	*Second Suffolk and Middlesex*	
Ellen Story	*3rd Hampshire*	
Peter V. Kocot	*1st Hampshire*	

James B. Eldridge	*Middlesex and Worcester*	
Marjorie C. Decker	*25th Middlesex*	
Cynthia S. Creem	*First Middlesex and Norfolk*	
Gailanne M. Cariddi	*1st Berkshire*	
David M. Rogers	*24th Middlesex*	
Alice Hanlon Peisch	*14th Norfolk*	
Patricia D. Jehlen	*Second Middlesex*	
Tom Sannicandro	*7th Middlesex*	
Paul W. Mark	*2nd Berkshire*	
Jonathan Hecht	*29th Middlesex*	
Kenneth J. Donnelly	*Fourth Middlesex*	
Paul J. Donato	*35th Middlesex*	
Angelo J. Puppolo, Jr.	*12th Hampden*	
Claire D. Cronin	*11th Plymouth*	
Christine P. Barber	*34th Middlesex*	
Timothy R. Madden	*Barnstable, Dukes and Nantucket*	
Jennifer E. Benson	*37th Middlesex*	
Denise C. Garlick	*13th Norfolk*	
Benjamin Swan	*11th Hampden*	
Byron Rushing	*9th Suffolk*	
Tricia Farley-Bouvier	*3rd Berkshire*	
Daniel J. Ryan	*2nd Suffolk*	
Timothy J. Toomey, Jr.	*26th Middlesex*	
John C. Velis	*4th Hampden*	
Kenneth I. Gordon	*21st Middlesex*	*5/5/2015*
Paul A. Schmid, III	*8th Bristol*	*9/29/2015*
Elizabeth A. Malia	*11th Suffolk*	*10/26/2015*
Paul Tucker	*7th Essex*	*11/16/2015*
Stephen Kulik	*1st Franklin*	*2/22/2016*
Jose F. Tosado	*9th Hampden*	*3/2/2016*

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SENATE . . . . . No. 1747

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 1747) of Michael J. Barrett, Chris Walsh, Kay Khan, Frank I. Smizik and other members of the General Court for legislation to combat climate change. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act combating climate change.

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

SECTION 1. Section 3 of chapter 25A of the Massachusetts General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting the following definitions: —

"Carbon-based fuel", coal, natural gas, renewable biomass as defined in section one of chapter 64A, petroleum product, and any other product that contains methane or contains carbon and emits carbon dioxide when combusted, that are used for fuel, heating, cooling, or industrial processes, which processes shall include electricity generation other than by a CO2 budget unit as defined in 310 CMR 7.70(1)(b).

"Carbon-generated electricity", electric energy produced using a carbon-based fuel and generated or transmitted by an electric power facility as defined in section one of chapter 164A.

"Carbon dioxide equivalent", or "CO2e", a unit of measure denoting the amount of emissions from a greenhouse gas, expressed as the amount of carbon dioxide by weight that produces the same global warming impact.

13 “Carbon dioxide emissions charges”, the charges imposed on each ton of CO2e pursuant
14 to this chapter.

15 “Employer”, any person, state agency, or local governmental body who has employees
16 working in the commonwealth.

17 “Fund”, the carbon dioxide emissions charges rebate fund established under section 13B
18 of this chapter.

19 “Motor vehicle fuel”, fuel for the operation of a motor vehicle, provided, that “fuel” and
20 “motor vehicle” shall have the same meanings as defined in section one of chapter 64A.

21 “Resident” shall have the same meaning as defined in section one of chapter 62.

22 SECTION 2. Section 6 of chapter 25A of the General Laws, as so appearing, is hereby
23 amended by inserting after the last paragraph the following:

24 (13) administer the schedules of carbon dioxide emissions charges and the carbon dioxide
25 emissions charges rebate fund, both established pursuant to this chapter.

26 SECTION 3. Chapter 25A of the General Laws, as so appearing, is hereby amended by
27 inserting after section 13 the followings sections:

28 25A:13A Carbon dioxide emissions charges

29 Section 13A. (a) The commissioner of energy resources shall collect carbon dioxide
30 emissions charges on the distribution or sale of carbon-based fuels, including but not limited to
31 products that contain methane.

32 (b) The charge in the first year of operation shall be $10 per ton of CO2e. Said charges
33 shall increase by $5 every year until the rate is $40 per ton of CO2e. In the sixth year of
34 implementation, and every two years thereafter, the commissioner of energy resources, in
35 consultation with the commissioner of environmental protection, shall report to the house and
36 senate committees on ways and means, the joint committee on telecommunications, utilities and
37 energy, and the house and senate committees on global warming and climate change. Said
38 reports shall consider whether any increases or decreases in carbon dioxide emissions charges
39 are recommended to account for inflation, to ensure progress towards reaching emissions limits
40 for 2030, 2040, and 2050 included in or authorized by chapter 21N, the Climate Protection &
41 Green Economy Act, or, pursuant to section 13B(d)(3) of this chapter, to mitigate serious
42 negative impacts on economic sectors, economic sub-sectors or individual employers of the
43 commonwealth caused by collection of carbon dioxide emissions charges.

44 (c) The commissioner of energy resources shall determine the schedule of carbon dioxide
45 emissions charges authorized under this chapter by multiplying the CO2e of each carbon-based
46 fuel by the charge or charges established herein. For the purpose of calculating said schedule,
47 the commissioner, in consultation with the commissioner of environmental protection and the
48 commissioner of revenue, shall determine the average CO2e of each carbon-based fuel.

49 (d) Notwithstanding any general or special law to the contrary, the charges authorized
50 under this section shall not be imposed on any carbon-based fuel or source of carbon-based
51 electricity if such imposition is superseded by federal law or regulation.

52 25A:13B Carbon dioxide emissions charges rebate fund

53 Section 13B. (a) There shall be established on the books of the commonwealth a separate
54 fund to be known as the carbon dioxide emissions charges rebate fund. The commissioner of
55 energy resources shall deposit all proceeds collected under section 13A into said fund. None of
56 said proceeds shall fund government operations of the commonwealth, other than to pay for
57 reasonable administrative costs as provided under sub-section (b) of this section.

58 (b) The commissioner of energy resources shall return all carbon dioxide emissions
59 charge proceeds to residents and employers in the commonwealth in the form of rebates. The
60 aggregate amount of rebates returned to residents shall be reasonably equivalent to the aggregate
61 amount of carbon dioxide emissions charge proceeds attributable to charges paid directly and
62 indirectly by residents, and the aggregate amount of rebates returned to employers shall be
63 reasonably equivalent to the aggregate amount of carbon dioxide emissions charge proceeds
64 attributable to charges paid directly and indirectly by employers; provided, that the
65 commissioner may retain a reasonable amount of charge proceeds to pay for the costs of
66 administering the activities authorized by this chapter. Proceeds shall be available for the
67 purposes enumerated in this section without appropriation.

68 (c)(1) The commissioner of energy resources shall estimate total rebates to be returned to
69 residents pursuant to the terms of this chapter.

70 (2) The commissioner of energy resources shall set the amount of the individual rebate or
71 rebates to residents; provided, that each resident shall receive an equal rebate, except that
72 residents of rural municipalities shall receive an additional motor vehicle fuel rebate. The
73 commissioner shall annually determine the individual rebate or rebates per resident of the
74 commonwealth. For the purposes of this paragraph, a rural municipality is one in which

75 residents drive, on average, 130% or more per year of the statewide average number of miles
76 driven per household in the commonwealth. The commissioner shall calculate the additional
77 motor vehicle fuel rebate for rural residents by estimating the aggregate charges paid by all
78 residents of the commonwealth on the distribution or sale of motor vehicle fuel, and dividing
79 said estimate by the sum of the number of residents who do not reside in rural municipalities and
80 1.3 times the number of residents who reside in rural municipalities. The result shall be the
81 individual rebate per resident attributable to charges collected on motor vehicle fuel, which
82 rebate shall be added to the rebate per resident attributable to charges collected on fuels other
83 than motor vehicle fuels, both of which shall then be distributed to all residents of municipalities
84 other than rural municipalities; provided, that the remaining portion of estimated total rebates
85 shall be distributed in equal portions to all residents of rural municipalities.

86 (3) In rebating carbon dioxide emissions charge proceeds, the commissioner of energy
87 resources shall coordinate with officials of the department of revenue, the executive office of
88 health and human services, the executive office of housing and economic development and other
89 agencies in making all reasonable efforts to identify the names and addresses of all residents,
90 with special attention to the names and addresses of low-income residents.

91 (d)(1) The commissioner of energy resources shall estimate total rebates to be returned to
92 employers.

93 (2) The commissioner of energy resources shall set each employer's individual rebate
94 based on the employer's proportional share, in full-time equivalent employees, of statewide
95 employment. The commissioner shall annually determine the employer rebate per full-time
96 equivalent employee; provided, that the commissioner shall not count as an employee any person

97 who would not be considered an employee under chapter 148B; provided, further, that the
98 commissioner shall count only bona fide employees working in the commonwealth.

99 (3) The commissioner, in consultation with the commissioner of revenue and the
100 commissioner of housing and economic development, shall, with special attention to
101 manufacturing, identify economic sectors, economic sub-sectors or individual employers at risk
102 of serious negative impacts as a consequence of the charges collected pursuant to this chapter.
103 The commissioner may, as mitigation, calculate the total proceeds collected from said sectors,
104 subsectors or individual employers and may apportion the entirety of said proceeds to the
105 affected sector, sub-sector or employers.

106 (4) In rebating carbon dioxide emissions charge proceeds, the commissioner of energy
107 resources shall ensure that all employers in the commonwealth receive said rebate, including
108 those employers otherwise exempt from taxes under chapter 63 due to their status as not-for-
109 profit organizations or government entities.

110 (e) The commissioner of energy resources shall not be subject to penalties or lawsuits for
111 damages if the charges collected under this chapter are not precisely equal to rebates returned
112 under this chapter; provided, that the commissioner shall make all reasonable efforts to return to
113 residents and employers all charges collected under this chapter. The salary payable to the
114 governor, secretary of administration and finance and secretary of energy and environmental
115 affairs for the year following the year in which charges collected under this chapter unreasonably
116 exceed the rebates returned under this chapter shall be reduced by 15% until said excessive
117 charges are returned.

118 25A:13C Regulations; Miscellaneous

119 Section 13C. (a) The commissioner of energy resources, in consultation with the
120 commissioner of revenue and the commissioner of environmental protection, shall promulgate
121 rules and regulations necessary to carry out the provisions of this chapter.

122 (b) The commissioner shall undertake all reasonable efforts to collect charges authorized
123 pursuant to this chapter at the first point of distribution or sale within the commonwealth.

124 (c) The commissioner shall consider alternative calendar schedules for distribution of the
125 rebates authorized pursuant to this chapter, including partial or whole distributions early in the
126 relevant revenue cycle.

127 (d) The commissioner may issue additional rebates or declare exemptions from charges in
128 instances where charges have been paid but no emissions occur or are anticipated to occur.

129 (e) Within three years of the effective date of this legislation, the commissioner of energy
130 resources shall prepare a report on options for and the implications of collecting charges for
131 emissions of CO2e resulting from carbon-generated electricity produced or distributed in the
132 commonwealth. The implications considered shall include, but not be limited to, potential
133 effects on the market for emission allowances created by the regional greenhouse gas initiative.