

Initiative Measure No.1271 filed January 29, 2013

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: I-2651.1/13  
ATTY/TYPIST: JA:seg  
BRIEF DESCRIPTION: Creating a carbon tax.

Initiative Measure No. 1271 filed January 29, 2013

AN ACT Relating to creating a carbon tax; amending RCW 82.63.030 and 82.04.4452; adding a new chapter to Title 82 RCW; providing an effective date; and providing expiration dates.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The intent of this initiative measure is to promote sustainable economic development in Washington state by funding transportation investments and tax reductions and by imposing a carbon tax. This measure proposes that fifty percent of the revenue from the carbon tax must be devoted to tax rebates and reductions, including the working families tax exemption, business and occupation tax relief for manufacturers, the high tech research and development tax credit, and property tax relief; and that the remaining fifty percent of the revenue must be devoted to public investments in transit, road maintenance, and freight mobility.

NEW SECTION. **Sec. 2.** The sustainable economy tax reduction account is created in the state treasury. All revenues in the account

must be used to provide tax rebates and reductions as specified in this chapter.

NEW SECTION.     **Sec. 3.**     The sustainable economy transportation investment account is created in the state treasury. All revenues in the account must be used to provide transportation investments as specified in this chapter.

NEW SECTION.     **Sec. 4.**     The sustainable economy working families tax exemption account is created in the state treasury. All revenues in the account must be used to provide the working families tax exemption as specified in RCW 82.08.0206.

NEW SECTION.     **Sec. 5.**     The sustainable economy manufacturing business and occupation tax reduction account is created in the state treasury. All revenues in the account must be used to provide rebates on businesses and occupation taxes paid in association with manufacturing under chapter 82.04 RCW.

NEW SECTION.     **Sec. 6.**     The sustainable economy high tech research and development tax reduction account is created in the state treasury. All revenues in the account must be used to provide the tax incentives contained in chapter 82.63 RCW and RCW 82.04.4452, which apply to businesses engaged in research and development or pilot scale manufacturing in Washington in five high technology areas.

NEW SECTION.     **Sec. 7.**     The sustainable economy property tax reduction account is created in the state treasury. All revenues in the account must be used to provide rebates on property taxes paid under Title 84 RCW.

NEW SECTION.     **Sec. 8.**     The sustainable economy transit account is created in the state treasury. All revenues in the account must be used to fund transit programs in Washington state.

NEW SECTION. **Sec. 9.** The sustainable economy road maintenance account is created in the state treasury. All revenues in the account must be used to fund maintenance of existing roads, bridges, and ferries by the state and by city and county governments.

NEW SECTION. **Sec. 10.** The sustainable economy freight mobility account is created in the state treasury. All revenues in the account must be used to fund freight mobility projects as identified in the freight mobility plan under RCW 47.06.045, except that funding may not be provided to rail projects unless such projects will demonstrably not increase coal transport.

NEW SECTION. **Sec. 11.** (1) A tax is charged and collected on global warming pollution from fossil fuels in Washington. This tax is known as the global warming pollution tax. The global warming pollution tax applies to the following:

(a) Fossil fuels used in Washington, including all fossil fuels loaded onto airplanes, boats, and other vehicles with the intent of using that fuel on that vehicle;

(b) Fossil fuels used to generate electricity imported into Washington, to be determined by using the fuel mix data required under RCW 19.29A.060. Any tax collected under this section must be collected in a manner that provides that the same tax schedule applies to in-state and out-of-state generation.

(2) The global warming pollution tax will be reduced for uses of fossil fuels that can be shown and verified to not contribute to increasing atmospheric greenhouse gas concentrations including, but not limited to, fossil fuels that are sequestered in accordance with a method approved by the United States environmental protection agency. The tax reduction in such cases must be proportional to the fraction of emissions that are sequestered or otherwise shown and verified to not contribute to increasing atmospheric greenhouse gas concentrations.

(3) As of July 1, 2014, the tax charged under this section is thirty dollars per metric ton of carbon dioxide equivalent, and must

be adjusted each year beginning July 1, 2015, for inflation, as determined by the consumer price index.

(4) The department must adopt rules as necessary to implement the global warming pollution tax as provided in this section. The department must develop and make available worksheets and guidance documents necessary to calculate the global warming pollution produced by various fossil fuels. The department must use commonly used methods such as those maintained by the United States environmental protection agency to calculate the amount of global warming pollution produced by each type of fuel.

(5) Any person extracting or importing fossil fuels or importing electricity is liable for payment of the global warming pollution taxes charged under this section. Payment of all taxes charged under this section is due monthly.

(6) The department must deposit all taxes collected under this section, net of administrative costs, as follows:

(a) Fifty percent of the proceeds into the sustainable economy tax reduction account created in section 2 of this act, to be further allocated as follows, in order of priority:

(i) Into the sustainable economy working families tax exemption account created in section 4 of this act: Funds from the sustainable economy tax reduction account sufficient to fund a twenty percent working families tax exemption, or all funds in the sustainable economy tax reduction account, whichever is smaller. These funds must also cover administrative costs necessary to implement this section;

(ii) Into the sustainable economy manufacturing business and occupation tax reduction account created in section 5 of this act: Funds sufficient to rebate business and occupation taxes associated with manufacturing, or all funds remaining in the sustainable economy tax reduction account, whichever is smaller. These funds must also be sufficient to cover administrative costs necessary to implement this section;

(iii) Into the sustainable economy high tech research and development tax reduction account created in section 6 of this act: Funds sufficient to provide the tax incentives contained in chapter

82.63 RCW and RCW 82.04.4452, or all funds remaining in the sustainable economy tax reduction account, whichever is smaller. These funds must also be sufficient to cover administrative costs necessary to implement this section; and

(iv) Into the sustainable economy property tax reduction account created in section 7 of this act: Funds sufficient to rebate the property taxes in Title 84 RCW, or all funds remaining in the sustainable economy tax reduction account, whichever is smaller. These funds must also be sufficient to cover administrative costs necessary to implement this section. All remaining funds in the sustainable economy tax reduction account must be used to reduce or rebate state taxes; and

(b) Fifty percent of the proceeds into the sustainable economy transportation investment account created in section 3 of this act, to be further allocated as follows:

(i) Into the sustainable economy transit account created in section 8 of this act: Twenty-five percent of the funds in the sustainable economy transportation investment account;

(ii) Into the sustainable economy road maintenance account created in section 9 of this act: Fifty percent of the funds in the sustainable economy transportation investment account;

(iii) Into the sustainable economy freight mobility account created in section 10 of this act: Twenty-five percent of the funds in the sustainable economy transportation investment account.

NEW SECTION. **Sec. 12.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Carbon dioxide equivalents" means a measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Coal" means bituminous coal, subbituminous coal, lignite, and coke.

(3) "Fossil fuel" means natural gas, petroleum, pet coke, coal, or any form of solid, liquid, or gaseous fuel derived from such material, including still gas.

(4) "Person" means any individual, division of government, business, or corporation.

NEW SECTION.     **Sec. 13.**     Sections 1 through 12 of this act constitute a new chapter in Title 82 RCW.

**Sec. 14.**     RCW 82.63.030 and 2008 c 15 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the department (~~shall~~) must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project.

(2) No certificate may be issued for an investment project that has already received a deferral under chapter 82.60 RCW or this chapter, except that an investment project for qualified research and development that has already received a deferral may also receive an additional deferral certificate for adapting the investment project for use in pilot scale manufacturing.

(3) This section (~~shall~~) expires January 1, (2015) 2025.

**Sec. 15.**     RCW 82.04.4452 and 2010 c 114 s 114 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for each person whose research and development spending during the year in which the credit is claimed exceeds 0.92 percent of the person's taxable amount during the same calendar year.

(2) (a) The credit is calculated as follows:

~~((a))~~     (i) Determine the greater of the amount of qualified research and development expenditures of a person or eighty percent of amounts received by a person other than a public educational or research institution in compensation for the conduct of qualified research and development;

~~((b))~~     (ii) Subtract 0.92 percent of the person's taxable amount from the amount determined under (a) (i) of this subsection;

~~((e))~~ (iii) Multiply the amount determined under ~~((b))~~ (a)(ii) of this subsection by the following:

~~((i))~~ (A) For the period June 10, 2004, through December 31, 2006, the person's average tax rate for the calendar year for which the credit is claimed;

~~((ii))~~ (B) For the calendar year ending December 31, 2007, the greater of the person's average tax rate for that calendar year or 0.75 percent;

~~((iii))~~ (C) For the calendar year ending December 31, 2008, the greater of the person's average tax rate for that calendar year or 1.0 percent;

~~((iv))~~ (D) For the calendar year ending December 31, 2009, the greater of the person's average tax rate for that calendar year or 1.25 percent;

~~((v))~~ (E) For the calendar year ending December 31, 2010, and thereafter, 1.50 percent.

(b) For purposes of calculating the credit, if a person's reporting period is less than annual, the person may use an estimated average tax rate for the calendar year for which the credit is claimed by using the person's average tax rate for each reporting period. A person who uses an estimated average tax rate must make an adjustment to the total credit claimed for the calendar year using the person's actual average tax rate for the calendar year when the person files its last return for the calendar year for which the credit is claimed.

(3) Any person entitled to the credit provided in subsection (2) of this section as a result of qualified research and development conducted under contract may assign all or any portion of the credit to the person contracting for the performance of the qualified research and development.

(4) The credit, including any credit assigned to a person under subsection (3) of this section, must be claimed against taxes due for the same calendar year in which the qualified research and development expenditures are incurred. The credit, including any credit assigned to a person under subsection (3) of this section, for each calendar

year may not exceed the lesser of two million dollars or the amount of tax otherwise due under this chapter for the calendar year.

(5) For any person claiming the credit, including any credit assigned to a person under subsection (3) of this section, whose research and development spending during the calendar year in which the credit is claimed fails to exceed 0.92 percent of the person's taxable amount during the same calendar year or who is otherwise ineligible, the department must declare the taxes against which the credit was claimed to be immediately due and payable. The department must assess interest, but not penalties, on the taxes against which the credit was claimed. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid. Any credit assigned to a person under subsection (3) of this section that is disallowed as a result of this section may be claimed by the person who performed the qualified research and development subject to the limitations set forth in subsection (4) of this section.

(6) A person claiming the credit provided in this section must file a complete annual survey with the department under RCW 82.32.585.

(7) For the purpose of this section:

(a) "Average tax rate" means a person's total tax liability under this chapter for the calendar year for which the credit is claimed divided by the taxpayer's total taxable amount under this chapter for the calendar year for which the credit is claimed.

(b) "Qualified research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined under rules adopted by the department, benefits, supplies, and computer expenses, directly incurred in qualified research and development by a person claiming the credit provided in this section. The term does not include amounts paid to a person other than a public educational or research institution to conduct qualified research and development. Nor does the term include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(c) "Qualified research and development" (~~shall have~~) has the same meaning as in RCW 82.63.010.

(d) "Research and development spending" means qualified research and development expenditures plus eighty percent of amounts paid to a person other than a public educational or research institution to conduct qualified research and development.

(e) "Taxable amount" means the taxable amount subject to the tax imposed in this chapter required to be reported on the person's combined excise tax returns for the calendar year for which the credit is claimed, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(8) This section expires January 1, (~~2015~~) 2025.

**Sec. 16.** RCW 82.08.0206 is amended to read as follows:

(1) A working families' tax exemption, in the form of a remittance tax due under this chapter and chapter [82.12](#) RCW, is provided to eligible low-income persons for sales taxes paid under this chapter after January 1, 2008.

(2) For purposes of the exemption in this section, an eligible low-income person is:

(a) An individual, or an individual and that individual's spouse if they file a federal joint income tax return;

(b) [An individual who] Who is eligible for, and is granted, the credit provided in Title 26 U.S.C. Sec. 32; and

(c) [An individual who] Who properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington more than one hundred eighty days of the year for which the exemption is claimed.

(3) For remittances made in 2009 and 2010, the working families'

tax exemption for the prior year is a retail sales tax exemption equal to the greater of five percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or twenty-five dollars. For 2011 and thereafter, the working families' tax exemption for the prior year is equal to the greater of (~~ten~~) twenty percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or (~~fifty~~) one hundred dollars.

(4) For any fiscal period, the working families' tax exemption authorized under this section shall be approved by the legislature in the state omnibus appropriations act before persons may claim the exemption during the fiscal period.

(5) The working families' tax exemption shall be administered as provided in this subsection.

(a) An eligible low-income person claiming an exemption under this section must pay the tax imposed under chapters [82.08](#), [82.12](#), and [82.14](#) RCW in the year for which the exemption is claimed. The eligible low-income person may then apply to the department for the remittance as calculated under subsection (3) of this section.

(b) Application shall be made to the department in a form and manner determined by the department, but the department must provide alternative filing methods for applicants who do not have access to electronic filing.

(c) Application for the exemption remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before January 1, 2008. The department may use the best available data to process the exemption remittance. The department shall begin accepting applications October 1, 2009.

(d) The department shall review the application and determine eligibility for the working families' tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(e) The department shall remit the exempted amounts to eligible low-income persons who submitted applications. Remittances may be made by electronic funds transfer or other means.

(f) The department may, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of and requirements for this exemption.

(g) The department may contact persons who appear to be eligible low-income persons as a result of information received from the internal revenue service under such conditions and requirements as the internal revenue service may by law require.

(6) The provisions of chapter [82.32](#) RCW apply to the exemption in this section.

(7) The department may adopt rules necessary to implement this section.

(8) The department shall limit its costs for the exemption program to the initial start-up costs to implement the program. The state omnibus appropriations act shall specify funding to be used for the ongoing administrative costs of the program. These ongoing administrative costs include, but are not limited to, costs for: The processing of internet and mail applications, verification of application claims, compliance and collections, additional full-time employees at the department's call center, processing warrants,

updating printed materials and web information, media advertising, and support and maintenance of computer systems.

NEW SECTION. **Sec. 17.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 18.** This act takes effect July 1, 2014.