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July 19, 2024

The Honorable Steve Hobbs
ATTN: Stuart Holmes
PO Box 40229
Olympia, WA 98504-0229

Re: Ballot Title and Explanatory Statement for Initiative Measure No. 2117

Dear Secretary Hobbs:

In accordance with RCW 29A.32.040 and RCW 29A.32.070, we supply herewith the Ballot Title and Explanatory Statement for Initiative Measure No. 2117. The ballot title for Initiative Measure No. 2117 was previously established, and is repeated here solely for convenience of reference.

Ballot Title

Statement of Subject: Initiative Measure No. 2117 concerns carbon tax credit trading.

Concise Description: This measure would prohibit state agencies from imposing any type of carbon tax credit trading, and repeal legislation establishing a cap and invest program to reduce greenhouse gas emissions.

Should this measure be enacted into law? Yes [] No []

BALLOT MEASURE SUMMARY

This measure would prohibit state agencies from imposing any type of carbon tax credit trading, including “cap and trade” or “cap and tax” programs, regardless of whether the resulting increased costs are imposed on fuel recipients or fuel suppliers. It would repeal sections of the 2021 Washington Climate Commitment Act as amended, including repealing the creation and modification of a “cap and invest” program to reduce greenhouse gas emissions by specific entities.

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EXPLANATORY STATEMENT

The Law as It Presently Exists

In 2021, the Washington Legislature enacted the Climate Commitment Act, which directed the Department of Ecology to design and implement a cap-and-invest program to reduce statewide greenhouse gas emissions. The program works by setting an emissions limit, or cap, and then lowering the cap over time to help ensure Washington meets the greenhouse gas reduction commitments previously set elsewhere in state law. Under the Climate Commitment Act, large emitters of greenhouse gas pollution subject to the program must either reduce their carbon emissions or pay for “allowances” to cover their emissions.

The cap-and-invest program applies to certain large emitters of greenhouse gas pollution, including large facilities, fuel suppliers, natural gas and electric utilities, waste-to-energy facilities (starting in 2027), and railroads (starting in 2031). Generally, entities with annual emissions below 25,000 metric tons of carbon dioxide equivalent are not required to obtain allowances to cover their emissions. Carbon dioxide equivalent is a measure used to compare the emissions from various greenhouse gases based on their global warming potential. Additionally, the emissions from certain facilities and certain types of fuel are not subject to the law. These include emissions from fuels used for agriculture or the transportation of agricultural products, aviation fuels, marine fuels combusted outside of Washington, and fuels exported out of Washington. The law also exempts emissions from national security facilities and certain municipal solid waste landfills.

Large emitters of greenhouse gas pollution covered by the program must obtain allowances equal to their covered emissions. Allowances are available through auctions administered by the Department of Ecology. The price of allowances sold at auctions fluctuates depending on market demand. Allowances can also be bought or sold through secondary markets at any time based on market prices. A portion of each polluter’s compliance obligation may also be met using offset credits, which are also bought and sold on a secondary market. An offset credit is purchased from developers of projects that the Department of Ecology has verified will result in permanent greenhouse gas reductions. Three types of polluters are issued free allowances that can be used to cover some or all of their emissions: “emissions-intensive, trade exposed” industries, natural gas utilities, and electric utilities.

All polluters covered by the program must report their greenhouse gas emissions and submit their allowances or other compliance instruments to the Department of Ecology according to a specific schedule. Failure to submit the required number of allowances by the applicable deadline results in an automatic penalty requiring the polluter to submit four allowances for each missing one. Failure to comply with other requirements of the cap-and-invest program is subject to fines of up to \$50,000 per violation, per day.

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Proceeds from the allowance auctions are appropriated by the Legislature and must be invested in climate projects throughout the state, including projects to increase climate resiliency, fund alternative-transportation grant programs, and help Washington transition to a low-carbon economy. State agencies that receive auction proceeds must conduct environmental justice assessments when allocating those funds, consistent with requirements set elsewhere in state law. At least 35% of auction proceeds are required to be used for projects that provide a direct benefit to people in communities disproportionately impacted by environmental harms. Additionally, at least 10% of auction proceeds must be used for projects with Tribal support. The Department of Ecology is required to provide an annual report to the Legislature summarizing how the auction proceeds have been used and whether each project produced verifiable emissions reductions. In 2023, cap-and-invest auctions raised \$1.8 billion.

In addition to establishing the cap-and-invest program to reduce greenhouse gas emissions, the Climate Commitment Act also establishes a program for the Department of Ecology to reduce emissions of certain air pollutants (particulate matter, ozone, nitrogen dioxide, carbon monoxide, lead, and sulfur dioxide) in communities that the Department of Ecology has determined are overburdened and highly impacted by air pollution. This part of the Act requires Department of Ecology to collect data needed to determine which sources contribute the most to air pollution in these communities. The Climate Commitment Act then requires the Department of Ecology to work with local air agencies to analyze this data and use it to develop and enforce stricter air quality standards where appropriate.

The Effect of the Proposed Measure if Approved

If approved, Initiative Measure No. 2117 would repeal the Climate Commitment Act, and bar state agencies from implementing carbon tax credit trading programs. Repealing the Climate Commitment Act would eliminate the climate and air quality programs described above as well as the funding source for investments in climate projects throughout the state.

Sincerely,

s/Alicia O. Young

ALICIA O. YOUNG

Deputy Solicitor General

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