

From: Kevin O'Reilly

Sent: March 3, 2023 2:22 PM

To: Caroline Wawzonek

Cc: Caroline Cochrane; RJ Simpson; Shane Thompson; Julie Green; Diane Archie; Paulie Chinna; Jackie Jacobson; Jackie Jacobson; Ron Bonnetrouge; Lesa Semmler; Jane Weyallon Armstrong; Caitlin Cleveland; Frieda Martselos; Richard Edjericon; Rocky Simpson; Katrina Nokleby; Rylund Johnson; Frederick Blake; Glen Rutland; Shaleen Woodward

Subject: re: Model Bill for the Rebate of NWT Carbon Taxes

Importance: High

Minister Wawzonek

I have attached a model bill for the rebate of NWT Carbon Taxes. Please consider this as a positive contribution to the ongoing discussion on the implementation of a carbon tax, impact mitigation, use of funds for renewable and alternative energy, and improved transparency and accountability. This model bill has been developed largely based on the *Yukon Government Carbon Tax Rebate Act* <https://laws.yukon.ca/cms/images/LEGISLATION/PRINCIPAL/2019/2019-0008/2019-0008.pdf> The Yukon voluntarily entered into the federal backstop and the federal government passes on all the carbon taxes collected there to the Yukon Government which then uses their legislation for rebates and disbursement of those funds.

What the attached model bill does is:

- Create a revolving fund into which federal carbon taxes collected in the NWT must go;
- Create four notional accounts – individuals, corporations (wherever created, including federal non-profit corps) and societies (including non-profits who are not incorporated), Indigenous governments and municipalities;
- The fifth notional account would be a grant program –language in the federal Act is used but the intention here is that it would be not a rebate program for large emitters but a grant program for encouraging people and businesses to invest in renewable and alternative energy sources;
- For the individual rebates – individuals would get a basic rebate and then an additional offset rebate depending on the community in which they reside – all to be determined by regulation but some legislative guidance;
- Indigenous governments would be those with lands and resources or self-government agreements or those who are set out in regulations;
- Municipalities covers all statutory municipal entities with others being able to be prescribed by regulation; and
- Except for the individual account, formulas are not used. This is to reflect that there are ways of achieving a split of these revenues in a way that recognizes the differing cost of living in the NWT.

This model bill is an early draft and would require some work but it shows what could be done if the NWT were to come under the federal backstop, based on what has happened in the Yukon.

The principles and approach of this model bill could also be equally applied to a new and better approach to a NWT carbon tax.

I intend to table this email and the model bill in the House on Monday, March 6, 2023. I would welcome the opportunity to discuss this with you. Thanks.

Mársı | Kinanāskomitin | Thank you | Merci | Haj' | Quana | Qujannamiik | Quyanainni | Máhsı | Máhsı | Mahsi

Kevin O'Reilly

Pronouns | Pronoms: he/him/his | il/lui

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Northwest Territories Carbon Tax Rebate Act

PREAMBLE

WHEREAS the Government of the Northwest Territories recognizes that human caused carbon emissions are the source of climate change and that the effects of climate change are more pronounced in northern Canada as a result of geographic location;

AND WHEREAS there is an urgent need to act to address the rate and effects of climate change;

AND WHEREAS a tax on products which cause carbon emissions is one method with which to disincentive the use of carbon products;

AND WHEREAS there is value in identifying and supporting alternative sources of renewable energy;

AND WHEREAS it is important to recognize the different cost of living in remote areas of the Northwest Territories and to compensate certain residents for their higher cost of living so as to ensure that the cost of climate change is not borne disproportionately by residents of remote communities; and

AND WHEREAS it is important that there be transparency and public accountability with respect to the management of carbon tax revenues;

The Commissioner of the Northwest Territories by and with the consent of the Legislative Assembly, hereby enacts as follows:

PURPOSE

1. The purpose of this Act is to
 - (a) Allocate carbon tax revenues to residents, corporations and societies, municipalities and Indigenous Governments in a manner which offsets, in an equitable fashion, the increased costs of the federal Act;
 - (b) Promote the responsible development of alternative and renewable energy programs; and
 - (c) Report to the public in a transparent fashion the receipt of funds under the federal Act and the allocation of those funds to residents, businesses, municipalities, Indigenous Governments and alternative and renewable energy programs.

PART 1 - DEFINITIONS

2. “**Carbon Tax Rebate Revolving Fund**” means the Fund established by section 4;
- “**Corporation**” includes a company or other body Corporate, wherever or however incorporated, carrying on business in the Northwest Territories;
- “**Federal Act**” means *Greenhouse Gas Pollution Pricing Act* (S.C. 2018, c. 12, s. 186);
- “**Fuel**” means fuel or combustible waste, within the respective meaning of those expressions within the Federal Act;
- “**Greenhouse gas**” has the same meaning as in Part 2 of the Federal Act;
- “**Indigenous Government**” means a government established under a land claim agreement entered into between the Federal Government and an Indigenous organization within the Northwest Territories, or as may be prescribed;
- “**Municipal Government**” means the council of a city, town or village established under the *Cities, Towns and Villages Act*, a hamlet established under the *Hamlets Act* or a charter community established under the *Charter Communities Act* or a prescribed entity;
- “**Society**” means a society incorporated under the *Societies Act*;
- “**Notional accounts**” means the accounts established by s. 9;
3. For the purposes of this Act, a person is resident in a place only if they are resident there within the meaning of the *Income Tax Act*.

PART 2 – CARBON TAX REVOLVING FUND

4. The Carbon Tax Rebate Revolving Fund is established as a revolving fund.
5. (1) Despite the *Financial Administration Act*, any unexpended balance of the Carbon Tax Rebate Revolving Fund that remains at the end of a financial year does not lapse and money may be allowed to accumulate in the fund from one financial year to another.
- (2) Subsection (1) applies also, with any modifications that the circumstances require, in respect of each of the Carbon Tax Rebate Revolving Fund’s notional accounts.

6. The purposes of the Carbon Tax Rebate Revolving Fund are
- (a) The payment or crediting, on a revenue-neutral basis and in accordance with this *Act* and the *Income Tax Act*, of amounts, on account of certain amounts that the Government of the Northwest Territories receives from the Government of Canada under the federal *Act*, to
 - i. individuals resident in Northwest Territories;
 - ii. corporations and societies that carry on businesses in the Northwest Territories;
 - iii. Indigenous Governments;
 - iv. Municipal governments; and
 - (b) The funding of programs to promote the responsible development of alternative and renewal energy programs.
7. (1) Any amount that the Government of Canada distributes to the Government of the Northwest Territories under subsection 165(2) or 188(1) of the federal *Act* must immediately be credited to the Carbon Price Rebate Revolving Fund and allocated among its notional accounts in accordance with section 9.
- (2) An appropriation Act may credit any amount to the Carbon Price Rebate Revolving Fund, and may allocate the amount to one or more of its notional accounts.
8. The Carbon Tax Rebate Revolving Fund must be used only for the purposes described in section 6 and in accordance with this Act.
9. (1) The Carbon Tax Rebate Revolving Fund is to be divided into the following notional accounts:
- a) Individual Rebate Account;
 - b) Corporation and Society Rebate Account;
 - c) Municipal Government Rebate Account;
 - d) Indigenous Government Rebate Account; and
 - e) Emissions-intensive Facilities Grant Account.
- (2) When an amount (referred to in this subsection as the “federal Part 1 amount received”) is distributed under subsection 165(2) of the federal *Act* and credited to the Carbon Tax Rebate Revolving Fund these funds must be allocated to each notional account the amount determined by the formula:

$$A \times B$$

where

A is the prescribed percentage for that notional account; and

B is the federal Part 1 amount received.

- (3) Any amount that is distributed under subsection 188(1) or (2) of the federal Act and credited to the Carbon Price Rebate Revolving Fund must be allocated to the Emissions-intensive Facilities Rebate Account.
10. (1) The Minister may issue directives governing the operation of the Carbon Price Rebate Revolving Fund.
- (2) The Minister shall, without delay, publish any directives issued under (1) on the Department of Finance website and any directives issued shall have no legal effect until this takes place.
11. The Minister shall prepare an annual report with respect to the administration of this Act for tabling in the Legislative Assembly during each fiscal year including
- a) the total amount of carbon tax collected in the Northwest Territories;
 - b) the amount deposited into each notional account;
 - c) the total amount of rebates paid out under the under this Act;
 - d) a list of all grants made under the Emissions-intensive Facilities Rebate Account, and detail relating to the programs approved for the rebates;
 - e) an estimate of the anticipated reduction in greenhouse gas emissions relating to each grant provided under the Emissions-intensive Facilities Rebate Account
 - f) any other expenditures made in the collection and administration of the carbon tax;
 - g) an estimate of the total reduction in greenhouse gas emissions in the Northwest Territories expected and achieved as a result of the expenditures incurred based on the amount of carbon tax collected;
 - h) any information the Minister considers to be in the public interest as it relates to the imposition of the carbon tax, use of the carbon tax revenues, and impacts on the cost of living in the Northwest Territories and the environment; and
 - i) any prescribed information.

PART 3 – REBATES FOR INDIVIDUALS

12. (1) The Minister must determine, in accordance with sections 13 and 14, for each personal rebate year
- (a) The basic individual rate amount; and
 - (b) The cost of living offset amount for each community;
- (2) In determining the cost of living offset for each community, the Minister shall take into consideration the cost of heating and fuel in each community, and the community's geographic location, with a view to ensuring that those communities with the highest heating and fuel costs receive a proportionally higher offset amount.
13. (1) The basic individual rebate amount for a personal rebate year is, subject to subsection (2) the amount determined by the formula:

[insert individual rebate amount formula]

where

A is the positive or negative balance in the Individual Rebate Account as of the end of the second last financial year that ends before the beginning of the personal rebate year;

B is the total, estimated by the Minister in the prescribed manner, of all amounts that the Minister expects to be allocated under subsection 8(1)(a) to the Individual Rebate Account during the period that:

- (a) begins at the beginning of the last financial year that ends before the beginning of the personal rebate year, and
- (b) ends at the end of the personal rebate year;

C is the Minister's projection, made in the prescribed manner, of the number of individuals who will be resident in the Northwest Territories at the beginning of the individual rebate year;

D is the prescribed supplementary factor for the individual rebate year, expressed as a decimal fraction; and

- (2) If the amount determined by the formula in subsection (1) for a individual rebate year is not a multiple of four dollars, the basic individual rebate amount for the individual rebate year is that amount rounded to the nearest multiple of four dollars or, if that

amount is equidistant from two such multiples that are consecutive, to the higher of them.

14. The cost of living offset amount for a individual rebate year is the amount determined by the formula:

$$A \times B$$

Where

A is the prescribed supplementary factor each community for the individual rebate year, expressed as a decimal fraction; and

B is the basic individual rebate amount for the individual rebate year.

15. As soon as practicable after determining the basic individual rebate amount and the cost of living offset amount for each community for a individual rebate year, the Minister must certify those amounts in writing to the Minister of National Revenue for Canada.

PART 4 – REBATES FOR CORPORATIONS AND SOCIETIES

16. The Minister must determine, in the prescribed manner, the general corporation and society rebate factor for each financial year
17. As soon as practicable after determining the general corporation and society rebate factor for a particular financial year, the Minister must certify the rebate factor in writing to the Minister of National Revenue for Canada.

PART 5 – REBATES FOR INDIGENOUS GOVERNMENTS AND MUNICIPALITIES

18. On the last day of each financial year, the Minister must pay to each prescribed Indigenous Government
- (a) its proportion, as set out in an agreement among all Northwest Territories Indigenous Governments and the Government of the Northwest Territories of the balance of the Indigenous Government Rebate Account on that day; or
 - (b) if no such agreement is in force, its proportion of that balance as prescribed or as calculated in accordance with the prescribed formula.
19. On the first day of each financial year, the Minister must pay to each municipal government its proportion of the balance of the Municipal Rebate Account at the end of the immediately preceding financial year, as prescribed or as calculated in accordance with the prescribed formula.

PART 6 - EMISSIONS INTENSIVE FACILITIES GRANT ACCOUNT

20. On or before March 31 in each financial year, the Minister must estimate, in the prescribed manner, the amount that will be available to be paid from the Emissions-intensive Facilities Grant Account during the next financial year.
21. In each financial year, the amount that the Minister has determined under section 20 for the financial year must, in accordance with the regulations, be paid or credited to prescribed persons or businesses in a manner that supports the reduction of emissions of greenhouse gases in the Northwest Territories.

PART 7 - REGULATIONS

22. (1) The Commissioner in Executive Council may make regulations that are considered necessary or advisable for carrying out the purposes and provisions of this Act, including regulations that
 - (a) Define classes of eligible corporations and societies;
 - (b) Prescribing Indigenous Governments;
 - (c) Prescribing the formulas for the payment of rebates from the notional accounts;
 - (d) Prescribing persons, businesses and programs eligible for funding from the Emission Intensive Facilities Rebate Account;
 - (e) Respecting the information which must be contained in the annual report;
 - (f) Prescribe anything that this Act requires or allows to be prescribed; and
 - (g) Define any expression that this Act uses but does not define or further define an expression that this Act defines.
- (2) A regulation under this Act may
 - (a) establish and distinguish among groups, whether of persons or things, and treat those groups differently;
 - (b) incorporate by reference, in whole or in part or with modifications, any written standard, protocol, rule, guideline, code or other document, either as it reads on a date specified in the regulation or as it is amended from time to time;
 - (c) delegate any matter to a person; or
 - (d) confer a discretion in respect of any matter on a person.
23. This Act comes into force on April 1, 2023.