

# FINAL BILL REPORT

## E2SSB 6058

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Synopsis as Enacted

**Brief Description:** Facilitating linkage of Washington's carbon market with the California-Quebec carbon market.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Nguyen, Hunt, Kuderer, Lias, Mullet, Pedersen, Saldaña, Shewmake and Stanford; by request of Department of Ecology).

**Senate Committee on Environment, Energy & Technology**  
**Senate Committee on Ways & Means**  
**House Committee on Environment & Energy**  
**House Committee on Appropriations**

**Background:** Cap and Invest Program. In 2021, the Legislature directed the Department of Ecology (Ecology) to implement a cap and invest program (Program), also known as the Climate Commitment Act, to reduce greenhouse gas (GHG) emissions consistent with the statewide statutory emissions limits.

Starting on January 1, 2023, the Program will cover industrial facilities, certain fuel suppliers, in-state electricity generators, electricity importers, and natural gas distributors with annual GHGs above 25,000 metric tons of carbon dioxide equivalent (CO<sub>2</sub>e). Covered entities must either reduce their emissions, or obtain allowances to cover any remaining emissions. The total number of allowances will decrease over time to meet statutory limits. Some utilities and industries will be issued free allowances; other allowances will be auctioned.

Compliance Instruments, Obligations, and Periods. The Program must track, verify, and enforce compliance through the use of compliance instruments. A compliance instrument is an allowance or offset credit issued by Ecology or a trading program linked with Washington's Program. One compliance instrument is equal to one metric ton of CO<sub>2</sub>e.

Covered and opt-in entities may not buy more than 10 percent of the allowances offered

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during a single auction. A General Market Participant (GMP) may not buy more than 4 percent of allowances offered during a single auction and own more than 10 percent of the total allowances issued in any calendar year.

If a covered or opt-in entity fails to submit sufficient compliance instruments to meet its compliance obligations by the specified transfer dates, it must submit a penalty of four allowances for every one allowance missing within six months. Civil penalties are levied if a covered or opt-in entity fails to submit penalty allowances.

A compliance period is four years, and the first compliance period is January 1, 2023, through December 31, 2026.

Offsets. A portion of a covered or opt-in entity's compliance obligation may be met through offset credits from projects that result in GHG reductions or removals that are real, permanent, quantifiable, verifiable, and enforceable. Offset projects must be in addition to emissions reductions required by law and a certain percentage must provide direct environmental benefits to Washington State.

Linkage Agreement. The Program requires Ecology to seek to enter linkage agreements with other jurisdictions. Ecology must conduct a public comment process and establish a finding that the linking jurisdiction and linkage agreement meet specified criteria before any linkage program can go forward, including requiring that linkage broadens GHG emission reduction opportunities to reduce costs of compliance on covered entities and consumers and providing consistent requirements for covered entities across jurisdictions. A linkage agreement must also ensure the distribution of benefits from the Program to vulnerable populations and overburdened communities and not adversely impact Washington's ability to achieve its statutory emission reduction limits.

In October 2023, Ecology published a Cap-and-Invest Linkage Criteria Preliminary Analysis report, with the recommendation that joining a larger, more liquid market with a greater number of participants would likely lead allowance prices to be lower, provide greater price stability, and lead to a more durable program.

The Director of Ecology is authorized to execute linkage agreements with other jurisdictions with GHG trading programs consistent with Washington's Program. In November 2023, the Director of Ecology announced a preliminary decision to pursue linking Washington's carbon market with the California-Quebec market. Current law requires Ecology to provide agency request legislation if it finds any statutory provision prevents linking Washington's Program with another jurisdiction.

Greenhouse Gas Emissions Reporting. Under the state Clean Air Act, GHG emissions associated with electricity must be reported if they reach 10,000 metric tons of CO<sub>2</sub>e per year. Ecology is required to review and, if necessary, update Washington's GHG emissions reporting whenever the U.S. Environmental Protection Agency (EPA) adopts GHG

emissions reporting requirements.

Biofuels. Carbon dioxide emissions from the combustion of biomass or biofuels are exempt from the Program, when these fuels have at least 40 percent lower GHG emissions based on a full life-cycle analysis when compared to petroleum fuels.

Initiatives to the Legislature. The Washington State Constitution authorizes the initiative process, allowing the people to place a proposition on the ballot or to submit the proposed law to the Legislature. If an initiative to the Legislature is certified for sufficient signatures, the Legislature may approve the measure, reject or take no action on the measure, or pass an alternative proposal. If the Legislature takes no action, the measure is submitted to the voters at the next general election for approval or rejection. If the Legislature approves an alternative measure, both the alternative and original measures are submitted to the voters at the next general election for approval or rejection.

As of January 9, 2024, Initiative Measure No. 2117 (I-2117), concerning carbon tax credit trading, has been granted provisional certification while signatures are verified.

**Summary:** Compliance Periods. If Ecology enters into a linkage agreement, and the linked jurisdictions do not amend their rules to synchronize with Washington's compliance periods, Ecology must amend its rules to synchronize with those of a linked jurisdiction. Ecology may not amend the length of the first compliance period, which must end December 31, 2026. Statutory references to a four-year compliance period and dates for the second compliance period and beyond are removed. Ecology's comprehensive review of the Program reporting requirement, beginning December 1, 2027, must continue one year after a compliance period ends, rather than every four years.

Emission intensive trade-exposed facility no-cost allowance allocation is set based on four-year periods, rather than being based on the length of a compliance period.

Electricity. Ecology may define by rule an electricity importer where:

- electricity is provided as balancing energy located in Washington State that is also inside a balancing authority area not located entirely within Washington State; and
- imported electricity is not otherwise assigned an electricity importer under the Program.

The definition of imported electricity is amended so it no longer needs to exclude imports of unspecified electricity netted by exports of unspecified electricity under certain circumstances. Imported electricity, however, does not include any electricity that Ecology determines by rule to be wheeled through Washington or separately accounted for. Electricity wheeled through Washington includes electricity wheeled through the state on a single NERC e-tag, or wheeled into and out of Washington at a common point or trading hub on the power system on separate e-tags within the same hour.

An electricity importer of specified sources continues to become a covered entity once they report emissions or provide data that indicates their emissions equals or exceeds a threshold of 25,000 metric tons of CO<sub>2</sub>e. If Ecology determines that electricity purchased from a federal power marketing administration is not from a specified source, the electricity importer is a covered entity when the emissions associated with the electricity exceeds 25,000 metric tons of CO<sub>2</sub>e. An electricity importer of unspecified sources unless purchased from a federal power marketing administration as stated above, is a covered entity regardless of their level of emissions.

A federal power marketing administration (FPMA) may elect to voluntarily participate in CCA by registering as an opt-in entity, according to Ecology's registration requirements. The FPMA may assume compliance obligations associated with either all the electricity it markets in Washington or only the electricity it markets in Washington through a centralized electricity market.

A FPMA should register with Ecology as an opt-in entity in CCA at least 90 days prior to January 1st of the calendar year it would assume compliance obligations associated with federally marketed electricity in Washington. If a FPMA registers as an opt-in entity, then a covered or opt-in entity should not include in its covered emissions those associated with the electricity the FPMA has assumed in its the compliance obligation.

Electric utilities may voluntarily transfer or automatically distribute their allocated no-cost allowances to the FPMA to be used for direct compliance. The electric utility may transfer allowances from its holding account to the FPMA's holding account by submitting a request to Ecology requesting and providing specific information, including the number and vintage of no cost allowances to be transferred. Ecology may transfer the allowances only if:

- the electric utility has an agreement the to purchase electricity from the FPMA; and
- the transfer does not violate the FPMA's holding limit.

For an automatic distribution, an electric utility must inform Ecology by September 1st of the year where the allocation or portion of the allocation of no cost allowances will be automatically distributed, otherwise Ecology must place all directly allocated allowances in the electric utility's holding account.

Linkage Provisions. Ecology is authorized to withdraw from a linkage agreement. Every linkage agreement must provide that Ecology reserves the right to withdraw.

Before entering a linkage agreement, Ecology must post on its website a quarterly status update regarding any potential linkage agreement that Ecology may enter into. Ecology must also notify the Legislature. The status report must include an outline of the expected steps that Ecology and the linked jurisdiction will need to take prior to entering into the agreement; notification of any completed or initiated steps; and an estimate of the time frames of possible completion of the remaining steps.

Allowance Purchase Limits. The percentage of allowances a covered or opt-in entity may buy during a single auction is increased from 10 to 25 percent.

A general market participant continues to be prohibited from owning more than 10 percent of the total allowances issued in any calendar year, until Washington links with a jurisdiction that does not have this requirement.

Offsets. A covered or opt-in entity may meet up to 5 percent of its first compliance period obligation with offset credits and up to 4 percent during the second compliance period, regardless of whether the offset project is located on federally recognized tribal land. It is clarified that up to an additional 3 percent of compliance obligations during the first compliance period, and up to an additional 2 percent during the second compliance period may be met with offset projects on federally recognized tribal land.

For any offset credits issued by a jurisdiction that Washington has linked with, the offset credits must come from offset projects located in Washington or the linked jurisdiction.

Ecology must take into consideration forest practices rules where a project is located or applicable best management practices established by federal, state, or local governments that relate to forest management when adopting protocols governing offset projects and use of offset credits.

Penalties. Ecology's discretion to reduce the penalty amount for an entity that fails to submit compliance instruments to meet its compliance obligation for the first compliance period is removed once the first compliance period ends or when Ecology enters into a linkage agreement, whichever is sooner.

Greenhouse Gas Emissions Reporting. Under the Clean Air Act, Ecology may require entities that supply electricity to report emissions of GHG from all electricity purchased, sold, imported, exported, or exchanged in Washington, regardless of how many metric tons of CO<sub>2</sub>e. Ecology's rules must seek to minimize the reporting burdens through the use of existing reports and disclosures for electric utilities whose GHG emissions from electricity are 10,000 metric tons of CO<sub>2</sub>e or less per year.

Ecology must establish GHG emission reporting methodologies for persons required to report under the CCA. Ecology's reporting methodologies must be designed to address the needs of accuracy and consistency over time, and may, to the extent practicable, be similar to reported methodologies in the linked jurisdictions.

Ecology is no longer required to review and update its rules whenever the EPA adopts federal reporting requirements for GHG emissions nor to ensure consistency with emissions reporting requirements in jurisdictions with a linkage agreement with Washington.

Biofuels. The type of biofuels exempted from CCA compliance are those fuels with the

lowest life-cycle GHG emissions that either:

- have a carbon intensity 30 percent lower than comparable petroleum fuels, or
- meet the standard adopted by Ecology by rule that is consistent with the standards or definitions for biofuel of a linked jurisdiction.

Contingent Null and Void Clause. This act is declared not to be a conflicting measure with I-2117, but if the Washington State Supreme Court directs the Secretary of State to place this act on the 2024 ballot as an alternative to I-2117, this act is null and void and may not be placed on the ballot.

**Votes on Final Passage:**

Senate	29	20	
House	57	39	(House amended)
Senate	28	19	(Senate concurred)

**Effective:** The bill takes effect on January 1, 2025, only if I-2117 is not approved by a vote of the people in the 2024 general election. If I-2117 is approved by a vote of the people in the 2024 general election, this act is null and void.