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## Environment & Energy Committee

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### HB 2537

**Brief Description:** Concerning emissions from emissions-intensive, trade-exposed facilities under the climate commitment act.

**Sponsors:** Representatives Doglio, Fitzgibbon, Berry, Parshley, Pollet, Ramel and Scott.

#### Brief Summary of Bill

- Requires the owners or operators of emissions-intensive trade-exposed (EITE) facilities covered under the Climate Commitment Act to report certain information to the Department of Ecology (Ecology) and develop plans to reduce greenhouse gas emissions, as a condition of the continued receipt of no-cost allowances.
- Amends the required contents of an Ecology report on EITE no-cost allowance allocation that is due to the Legislature in December, 2026.

**Hearing Date:** 1/27/26

**Staff:** Jacob Lipson (786-7196).

#### Background:

State law establishes the following limits on the emissions of greenhouse gases (GHGs) in Washington:

- by 2020, reduce overall emissions of GHGs in the state to 1990 levels, or 90.5 million metric tons of carbon dioxide equivalents (MMT CO<sub>2</sub>e);
- by 2030, reduce overall emissions of GHGs in the state to 45 percent below 1990 levels, or 50 MMT CO<sub>2</sub>e;
- by 2040, reduce overall emissions of GHGs in the state to 70 percent below 1990 levels, or 27 MMT CO<sub>2</sub>e; and

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- by 2050, reduce overall emissions of GHGs in the state to 95 percent below 1990 levels, or 5 MMT CO<sub>2</sub>e, and achieve net-zero GHG emissions.

Under the Climate Commitment Act (CCA), in order to ensure that GHG emissions are reduced consistent with the state's 2030, 2040, and 2050 emissions limits, the Department of Ecology (Ecology) is required to implement a program that establishes a cap on GHG emissions from covered entities and that tracks, verifies, and enforces compliance through the use of allowances or offset credits. The Cap-and-Invest Program (Program) commenced on January 1, 2023.

The annual allowance budgets established under the Program must be set to achieve the share of reductions by covered entities necessary to achieve the state's 2030, 2040, and 2050 emissions limits. Under Ecology's rules adopted to implement the Program, the allowance budgets are set to be reduced:

- by 7 percent each year between 2023 and 2030;
- by 1.8 percent from 2031 to 2042; and
- by 2.6 percent each year from 2043 to 2049.

All covered and opt-in entities are required to submit allowances or offset credits in a timely manner to meet their compliance obligations, which are based on an entity's GHG emissions over a compliance period of 4 years. Most CCA violations are subject to a penalty of up to \$10,000 per violation per day for non-compliance, although violations of certain Program requirements are subject to alternative penalty amounts.

Allowances are available for purchase at quarterly auctions open to covered entities and other program participants. Electric utilities, natural gas utilities, and emissions-intensive trade-exposed (EITE) facilities also receive no-cost allowance allocations directly distributed to them by Ecology. Owners or operators of EITE facilities that are required to participate in the Program receive an allocation of allowances at no cost as follows:

- for the years 2023 through 2026, the annual allocation of allowances must equal the facility's baseline carbon intensity, under which emissions are measured relative to facility production, as established using 2015 through 2019 data, multiplied by the EITE facility's actual production for each calendar year of the compliance period. For facilities using a mass-based approach, the allocation of allowances must equal the facility's mass-based baseline established using 2015 through 2019 data, unless there were abnormal circumstances during those years. A facility may use a mass-based baseline if it is not able to feasibly determine a carbon intensity benchmark based on its unique circumstances. In general, a facility may not switch from using a mass-based baseline to a carbon intensity baseline;
- for the years 2027 through 2030, the annual allocation of no-cost allowances is reduced to 97 percent of first compliance period allocations for mass-based facilities, or 3 percent below the first compliance period benchmark;
- for the years 2031 through 2034, the annual allocation of no-cost allowances is 94 percent of first compliance period allocations for mass-based facilities, or 3 percent below the second compliance period benchmark; and

- if the Legislature does not adopt a compliance obligation for EITE facilities by December 1, 2027, those facilities must continue to receive allowances as provided in the years 2031 through 2034.

Ecology is required to submit a report to the Legislature by December 1, 2026, that describes alternative methods for determining the amount and schedule of allowances to be provided to EITE facility owners and operators from January 1, 2035, through January 1, 2050. Ecology submitted a report to the Legislature on this topic in January of 2026.

### **Summary of Bill:**

The report from Ecology due to the Legislature by December 1, 2026, must provide recommendations addressing the schedule of allowances provided to EITE facilities from 2035 to 2050. The report must identify:

- a proposed method for making annual reductions to EITE allowance allocations that would ensure alignment with the allowance budgets established by Ecology for the Program and with state emission limits;
- proposed criteria and methods for Ecology to adjust EITE no-cost allowance allocations to address significant changes in leakage risk and to achieve Program purposes and state emission limits;
- the proposed design of a policy that would require a portion of an EITE facility's no-cost allowances to be consigned to auction, with the proceeds invested in GHG reductions at the EITE facility;
- additional state policies or strategies related to EITE decarbonization and emission reductions; and
- provisions of state law that would need to be amended to implement these recommendations.

In developing these recommendations, Ecology must consider input from certain parties and should consider other specified factors.

If the Legislature does not adopt a schedule of allowances to be provided to EITE owners or operators from January 1, 2035, through January 1, 2050, those EITE facilities must continue to receive allowances as provided for in the years 2031 through 2034 until a schedule is adopted.

To receive no-cost allowances associated with GHG emissions after January 1, 2027, an EITE facility owner or operator must provide biennial reports to Ecology beginning March 31, 2028, and must submit plans by March 31, 2028, that are updated every 4 years afterwards.

The biennial reports to Ecology by EITE owners or operators must include information about the GHG emissions of each unit of each EITE facility, including:

- the products and volumes of products produced by the facility;
- a qualitative description of EITE facility emission sources; and
- emissions associated with industrial processes, electrical generation, fossil fuel combustion

for low-temperature heat, medium-temperature heat, and high-temperature heat, and other information adopted by Ecology by rule.

Reports must be accompanied by a description and data documenting that the EITE facility owner or operators has achieved tangible progress towards implementing best practices for energy efficiency at the facility, as determined by Ecology.

The plans submitted to Ecology by EITE owners or operators every 4 years must:

- assess potentially technically feasible or emerging technology options to reduce EITE facility emissions that are subject to Program requirements;
- include all GHG reduction measures that have the potential to result in meaningful emission reductions;
- be informed by a best available technology assessment;
- consider opportunities associated with low, medium, and high-temperature heat categories;
- be verified by an independent third party; and
- include certain minimum contents, including technical aspects of each option, the expected GHG emission reductions, a budget and expected timeline, the identification of complementary options and a summary of any emission reductions achieved consistent with previous planning efforts by the EITE facility.

Violations of EITE reporting or planning requirements are subject to a penalty of up to \$10,000 per violation per day for non-compliance. Information submitted to Ecology must be structured to include a self-contained part that contains no confidential information, and a second part intended to be available only for the confidential use of Ecology, which Ecology must treat as confidential when consistent with Ecology's standard agency process for confidential information it receives.

Several statements declaring the purpose of the new EITE reporting and planning obligations are included. These statements reference an intent to use the reporting and planning obligations as a starting point to achieve EITE emission reductions in manner compatible with overall Program allowance budgets and that provides appropriate financial incentives for early actions by EITE owners, and to consider EITE facility owner actions when Ecology considers grant applications or awards from funds deriving from Program revenues.

**Appropriation:** None.

**Fiscal Note:** Requested on January 20, 2026.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.