



Summary of Initiative 2117

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 2117. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

BRIEF SUMMARY

- Prohibits state agencies from implementing any type of carbon tax credit trading, including the Climate Commitment Act (CCA).
- Repeals the Cap-and-Invest Program created by the CCA.

BACKGROUND

Initiative 2117

Initiative 2117 was filed in 2023 as an initiative to the Legislature. Once certified, an initiative to the Legislature is submitted to the Legislature at its next regular session, at which time the Legislature must take one of three actions:

- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- reject or take no action on the proposed initiative, in which case the initiative must be placed on the ballot at the next state general election; or
- approve an alternative to the proposed initiative, in which case both the original proposal and the Legislature's alternative must be placed on the ballot at the next state general election.

The Legislature did not act on Initiative 2117 during its 2024 Regular Session. This initiative is, therefore, being submitted to the people for approval or rejection at the November 2024 general election.

The ballot title and ballot measure summary are as follows:

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.

State Greenhouse Gas Emission Limits, Reporting, and Clean Air Act Regulation

The United States Environmental Protection Agency (EPA) and the Department of Ecology (Ecology) identify certain gases as greenhouse gases (GHGs) because of their capacity to trap heat in the earth's atmosphere.

State law establishes the following limits for the statewide emissions of 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 CO₂e);
- by 2030, reduce overall emissions of GHGs in the state to 45 percent below 1990 levels, or 50 MMT CO₂e;
- by 2040, reduce overall emissions of GHGs in the state to 70 percent below 1990 levels, or 27 MMT CO₂e; and
- by 2050, reduce overall emissions of GHGs in the state to 95 percent below 1990 levels, or 5 MMT CO₂e, and achieve net-zero GHG emissions.

Ecology is responsible for monitoring and tracking the state's progress in achieving these emissions limits.

In addition to federal reporting requirements, GHG emissions reporting is regulated by Ecology under the state Clean Air Act.

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 2117. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

Under the authority of the state Clean Air Act, in 2016 Ecology adopted a rule, known as the Clean Air Rule, to limit GHG emissions from certain stationary emission sources and from fuel supplied by petroleum product producers and importers and natural gas distributors. In 2020 the Washington Supreme Court invalidated a portion of the Clean Air Rule. The Clean Air Rule was repealed in its entirety in 2023, pursuant to legislative direction in the Climate Commitment Act (CCA).

Climate Commitment Act Overview

The CCA, enacted in 2021, established a Cap-and-Invest Program administered by Ecology that provides for overall GHG emissions from all covered entities to be reduced consistent with the state's 2030, 2040, and 2050 statewide emissions limits. The Cap-and-Invest Program establishes a market-based program that auctions and distributes allowances to covered entities that can be used to satisfy their compliance obligation, which varies by covered entity based on the GHG emissions of the covered entity over a multiyear compliance period. The Cap-and-Invest Program began on January 1, 2023.

The Cap-and-Invest Program:

- defines those entities covered by the Cap-and-Invest Program (covered entities), those entities that may voluntarily opt into coverage under the Cap-and-Invest Program (opt-in entities), and other persons that participate in auctions or allowance markets by purchasing, holding, selling, or voluntarily retiring compliance instruments (general market participants);
- establishes annual allowance budgets that limit the aggregate emissions from covered entities;
- provides for the distribution of emissions allowances at no cost to certain covered entities and for the sale at periodic auctions of other emissions allowances;
- provides for offset credits as a method for meeting compliance obligations;
- defines the compliance obligations of covered entities and identifies types of emissions that are exempt from program compliance obligations;
- provides for the transfer of allowances and recognition of compliance instruments, including those issued by jurisdictions with which Washington may have linkage agreements in the future; and
- provides monitoring and oversight of the sale and transfer of allowances, including the establishment of allowance price containment mechanisms.

The CCA, including the portion of the CCA that creates the Cap-and-Invest Program, was amended in the 2022, 2023, and 2024 legislative sessions. Other state laws enacted after 2021 also reference the CCA.

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 2117. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

In 2024 Engrossed Second Substitute Senate Bill 6058 (E2SSB 6058) was enacted, which made numerous changes to the CCA, including to the compliance obligations of electricity importers, to the coverage of biofuels, and to numerous logistical details of the Cap-and-Invest Program. The changes made to the CCA and state Clean Air Act GHG reporting laws in E2SSB 6058 were declared by the Legislature not to constitute an alternative to Initiative 2117. If a court of competent jurisdiction enters a final judgment that is no longer subject to appeal directing the Secretary of State to place E2SSB 6058 on the ballot in the November 2024 general election as a conflicting measure to Initiative 2117, E2SSB 6058 is null and void and may not be placed on the ballot. Engrossed Second Substitute Senate Bill 6058's changes to the CCA will otherwise take effect on January 1, 2025.

Revenue Distributions from the Climate Commitment Act's Cap-and-Invest Program

The CCA created five dedicated accounts in the state treasury into which revenues from Cap-and-Invest Program auctions are or are intended to be deposited, including the Carbon Emissions Reduction Account, the Climate Investment Account, the Natural Climate Solutions Account, the Climate Commitment Account, and the Air Quality and Health Disparities Improvement Account.

Legislation enacted after 2021 created three additional dedicated accounts into which Cap-and-Invest Program revenues are or may be deposited, including the Price Ceiling Unit Emission Reduction Investment Account, the Climate Transit Programs Account, and the Climate Active Transportation Account.

Other Greenhouse Gas Policies Included in the Climate Commitment Act

In addition to establishing the Cap-and-Invest Program, the CCA included other policies related to GHG emissions, including provisions that:

- amended preexisting GHG emissions reporting requirements under the state Clean Air Act, including by directing Ecology's GHG emission reporting rules to support the implementation of the Cap-and-Invest Program and eliminating the requirement that GHG emission reporting to Ecology be consistent with federal GHG emission reporting protocols;
- preempt Ecology's Clean Air Rule and required Ecology to repeal the Clean Air Rule;
- prohibit state agencies from adopting or enforcing a GHG pricing or market-based emissions cap and reduce program for stationary sources, or enforcing GHG emission limitations from stationary sources;

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 2117. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

- prohibit local governments from implementing a charge or tax based upon the quantity of GHG emissions; and
- address how certain types of lower-carbon facility siting decisions should be reviewed under the State Environmental Policy Act (SEPA) and with respect to the state's 2030, 2040, and 2050 GHG emission limits.

SUMMARY

State agencies are prohibited from implementing any type of carbon tax credit trading, which may also be known as "cap and trade" or "cap and tax," including the Climate Commitment Act (CCA). The prohibition on state agency implementation of the CCA and carbon tax credit trading applies regardless of whether resulting increased costs are imposed on fuel recipients or fuel suppliers.

Portions of the laws established by the CCA are repealed, including the following:

- the requirement that the Department of Ecology (Ecology) implement the CCA's Cap-and-Invest Program;
- six of the eight accounts that receive revenues from Cap-and-Invest Program allowance and price ceiling unit sales: the Carbon Emissions Reduction Account, the Climate Investment Account, the Climate Commitment Account, the Natural Climate Solutions Account, the Air Quality and Health Disparities Improvement Account, and the Price Ceiling Unit Emission Reduction Investment Account;
- the prohibition against state agencies adopting or enforcing greenhouse gas (GHG) pricing or emission reduction programs and standards applicable to stationary sources;
- the preemption of the Clean Air Rule and the requirement that Ecology repeal the Clean Air Rule;
- the prohibition on local governments implementing a charge or tax based exclusively upon a quantity of greenhouse gas emissions; and
- the provisions of the CCA that address the siting and placement of lower carbon-emitting facilities under the State Environmental Policy Act and with respect to the state's GHG emission limits for 2030, 2040, and 2050.

Certain provisions related to the CCA's Cap-and-Invest Program are not repealed or amended, including:

- the amendments made by the CCA to the state Clean Air Act's GHG emissions reporting requirements; and

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 2117. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

- two of the eight accounts that receive revenues from Cap-and-Invest Program allowance sales: the Climate Active Transportation Account and the Climate Transit Programs Account.

The provisions of the initiative are to be liberally construed to effectuate its policies, purposes, and intent.

Effective Date: The initiative takes effect 30 days after the election at which it is approved.

Staff Contacts: Jacob Lipson (786-7196).

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 2117. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.