

HOUSE BILL REPORT

HB 1314

As Reported by House Committee On: Environment

Title: An act relating to implementing a carbon pollution market program to reduce greenhouse gas emissions.

Brief Description: Implementing a carbon pollution market program to reduce greenhouse gas emissions.

Sponsors: Representatives Fitzgibbon, Hunter, Moeller, Carlyle, Peterson, Goodman, McBride, Jinkins, Tarleton, Kagi, Appleton, Cody, Ryu, Pollet, Hudgins, Fey, Lytton, Robinson, Ormsby, Farrell, Dunshee, Bergquist, Stanford, S. Hunt, Pettigrew, Walkinshaw, Reykdal, Wylie, Riccelli, Tharinger, Senn, Sawyer, Gregerson, Sells, Moscoso, Ortiz-Self and Van De Wege; by request of Governor Inslee.

Brief History:

Committee Activity:

Environment: 1/27/15, 1/29/15, 2/10/15 [DPS].

Brief Summary of Substitute Bill

- Establishes a market-based greenhouse gas (GHG) emissions program to be implemented by the Department of Ecology.
- The GHG emissions program must limit statewide emissions to levels established for 2020, 2035, and 2050 by requiring facilities, fuel suppliers, and electricity importers whose annual GHG emissions exceed 25,000 metric tons of carbon dioxide equivalent to obtain emissions allowances, beginning July 1, 2016.
- Distributes allowance auction proceeds to transportation projects, education, housing assistance programs, a sales tax rebate to low-income persons, a business and occupation tax credit for certain energy-intensive industries, and rural economic assistance programs.

HOUSE COMMITTEE ON ENVIRONMENT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Farrell, Fey, Goodman and McBride.

Minority Report: Do not pass. Signed by 5 members: Representatives Shea, Ranking Minority Member; Short, Assistant Ranking Minority Member; Harris, Pike and Taylor.

Staff: Jacob Lipson (786-7196).

Background:

The United States Environmental Protection Agency (EPA) and state Department of Ecology (ECY) identify carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride as greenhouse gases (GHGs) as a result of their capacity to trap heat in the Earth's atmosphere. According to the EPA, the global warming potential (GWP) of each GHG is a function of how much of the gas is concentrated in the atmosphere, how long the gas stays in the atmosphere, and how strongly the particular gas affects global atmospheric temperatures. Under state law, the GWP of a gas is measured in terms of the equivalence, over a 100-year timeframe, to the emission of an identical volume of carbon dioxide (carbon dioxide equivalent). For example, rules adopted by the ECY identify the GWP of carbon dioxide as one, the GWP of methane as 21, and the GWP of nitrous oxide as 310.

Current Federal and Washington Regulation of Greenhouse Gasses.

Under the federal Clean Air Act, GHGs are regulated as an air pollutant and are subject to several air regulations administered by the EPA. These federal Clean Air Act regulations include a requirement that facilities and fuel suppliers whose associated annual emissions exceed 25,000 metric tons of carbon dioxide equivalent report their emissions to the EPA.

At the state level, GHGs are regulated by the ECY under the state Clean Air Act. This state law requires facilities, sources, and sites whose emissions exceed 10,000 metric tons of carbon dioxide equivalent each year to report their annual emissions to the ECY or to local air authorities that implement the state Clean Air Act. Liquid motor vehicle and aircraft fuel suppliers that supply fuel whose combustion would exceed that same 10,000 ton volumetric threshold must also report their annual emissions.

Apart from reporting and other regulations under the state and federal clean air acts, several other state laws and programs explicitly address GHG emissions. State law prohibits Washington utilities from investing in or making a long-term financial commitment to sources of electricity whose generation exceeds a GHG emission performance standard of 1,100 pounds of GHGs per megawatt-hour, or a separate standard for natural gas generation as determined by the Department of Commerce.

State law also establishes the following limits for statewide GHG emission levels:

- By 2020, overall GHG emissions in the state must be reduced to 1990 levels.
- By 2035, overall GHG emissions in the state must be reduced to 25 percent below 1990 levels.

- By 2050, overall GHG emissions in the state must be reduced to 50 percent below 1990 levels or 70 percent below the state's expected emissions that year.

These emission limits do not specify how the state must achieve the established limits, nor does it require emission reductions to be achieved by particular entities or types of entities. The ECY is responsible for monitoring and tracking the state's progress towards the emission limits.

Context for Market-Based Air Emissions Programs.

Cap and trade programs, sometimes also called "market-based emission programs", generally operate by setting a fixed jurisdiction-wide limit on emissions of a particular air pollutant. The persons and businesses subject to the cap must not collectively exceed this limit. Covered participants must then generally pay a price to obtain the permits, allowances, or other mechanisms that authorize an entity to emit the capped pollutant (allowances). These allowances can often be purchased either directly from the implementing jurisdiction, from others required to participate in the program, or from participants in the program's market that elect to buy, sell, and trade allowances. Some of the policy choices that determine how a cap and trade program for an air pollutant is structured and implemented include:

- whether the allowances are auctioned or allocated to the persons covered by the program;
- whether dedicated portions of the jurisdiction-wide allowance limit are allocated to specific covered economic sectors;
- whether the program includes policies to establish or incentivize a minimum or maximum price for allowances, or both;
- when and how frequently allowances are auctioned to those covered by the program; and
- how the revenues from any auctions of allowances are distributed.

The state of California operates a GHG cap and trade program that covers most of that state's emission sources. As of January 1, 2014, California has linked its GHG emissions program with that of Quebec, meaning that emission allowances are jointly auctioned by the programs and may be traded across jurisdictional boundaries by program participants. Separately, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont participate in the multi-state Regional Greenhouse Gas Initiative program to cap GHG specifically from the generation of electricity for participating states. Other programs to limit GHG emissions using market-based mechanisms also operate in some jurisdictions outside of North America.

Other Washington Program Context.

The Pollution Control Hearings Board (PCHB) is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties made by the ECY and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review.

The Public Records Act requires state and local government agencies to make all public records available for public inspection and copying unless the records fall within a statutory exemption.

State agency rulemaking procedures are determined by the Administrative Procedure Act, and normally require public notice and a period of opportunity for the public to submit comments. However, an agency may adopt an emergency rule that takes effect upon filing and may remain in place for up to 120 days, if the rule is necessary for public health, safety, or general welfare.

Money in the Education Legacy Trust Account is used to fund K-12 schools, to expand access to higher education, and for other educational improvements.

Washington imposes a business and occupation tax (B&O tax) on the gross receipts of business activities conducted within the state. Business and occupation tax revenues are deposited into the State General Fund. There are several categories of B&O tax rates that apply to businesses engaged in different activities; in addition, credits against B&O tax obligations are available to businesses involved in certain types of activities.

State law requires that legislation establishing a new tax preference must include a tax preference performance or legislative intent statement. The Joint Legislative Audit and Review Committee (JLARC) periodically reviews the performance of tax preferences and determines whether the tax preference's stated public policy objectives are being met.

In 2008 the Legislature enacted a state sales tax remittance for low-income persons, which is also referred to as the Working Families Tax Rebate. To be eligible for the credit a person must file a federal income tax return, receive a federal Earned Income Tax Credit, have resided in Washington for more than 180 days in the year that the exemption is claimed, and pay the sales tax in the year for which the exemption is claimed. The amount of the remittance is either \$50 or equal to 10 percent of the person's earned income tax credit, whichever is greater. For any fiscal period, the Working Families Tax Rebate must be approved in the state omnibus appropriations act.

The Department of Commerce administers the Housing Assistance Program, which, using funds in the Housing Trust Fund Account, provides loan and grant monies to organizations to provide housing for low-income and special needs populations.

Summary of Substitute Bill:

A carbon pollution market program (program) is created, and implemented by the ECY beginning July 1, 2016. The program must distribute, by auction, tradable GHG allowances to persons covered by the program. The ECY must set a budget of total auctioned GHG allowances for the program at such a level that the state achieves the GHG limits established in state law. The ECY is directed to seek to link the state's program to similar market-based carbon programs in other jurisdictions, but is not required to utilize this authority to link with other programs. Revenues generated by the auctioning of allowances under the program are to be used for transportation projects and distributed to the State General Fund, among other uses.

Entities Required to Participate in the Program.

Certain businesses, government bodies, and other types of entities in Washington are required to participate in the program by obtaining auctioned emission allowances or offset credits equal to their expected GHG emissions for the relevant time period of compliance. All entities required to participate in the program must register with the ECY and note any affiliation with other registering entities.

The following entities are required to participate in the program:

- an entity that operates a facility covered by state GHG emission reporting rules must participate in the program if the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent per year;
- the first entity over which Washington has jurisdiction that generates or buys electricity to import for in-state use, if the associated emissions are at least 25,000 metric tons of carbon dioxide equivalent per year;
- a fuel supplier that has supplied fuels whose complete combustion or oxidation would emit at least 25,000 metric tons of carbon dioxide equivalent per year; and
- an entity that operates a facility and that purchases electricity directly from a federal power market agency with total associated emissions in excess of 25,000 metric tons of carbon dioxide per year.

The ECY may not assign compliance responsibility for the same emissions to multiple entities. Facilities that are required to participate in the program and that receive natural gas from a natural gas supplier are responsible for obtaining allowances or offsets for the natural gas they receive, rather than responsibility for those emissions being assigned to the natural gas supplier. Refinery facilities that also supply fuel are responsible for the emissions associated with both the operation of the facility and the eventual combustion of the fuel they supply. Other fuel suppliers that receive fuel from a refinery facility may demonstrate to the ECY that the compliance responsibility for the emissions associated with some or all of the fuel they receive has been covered by the refinery facility, and that the emissions associated with those fuels should be subtracted from the receiving fuel supplier's compliance responsibility. The emissions associated with imported electricity must be determined based on the generating facility's emissions if the importer owns the generating facility or has a contract with that facility; for other types of imported power, the associated emissions must be determined by a Department of Commerce rule.

Certain emissions sources are explicitly exempted from the program, including biofuel and biomass combustion emissions, emissions from sources such as landfills and manure management that are not required to report their emissions, and emissions from coal-fired electric generation facilities that are subject to the GHG performance standard in state law.

Compliance obligations under the program begin or end based on an entity's recent or anticipated GHG emissions exceeding the 25,000-ton of carbon dioxide equivalent threshold for a calendar year:

- If a facility, fuel supplier, or electricity importer exceeded the 25,000-metric ton emissions threshold in 2012, 2013, or 2014, they must participate in the program from the program's outset.
- If a facility, fuel supplier, or electricity importer begins or modifies operations after January 1, 2014 to exceed the 25,000-ton emissions threshold, but had not previously exceeded the 25,000-ton emission threshold, then it must begin participating in the

program at the first year that it emits at least 25,000 tons of emissions. A facility that continues in-state operations but which is newly required to report emissions must participate in the program upon formal notification by the ECY that its emissions are expected to exceed 25,000 tons of emissions, or upon exceeding that emissions threshold.

- If a facility, fuel supplier, or electricity importer initially required to participate in the program drops below the 25,000 tons of carbon dioxide equivalent threshold, then it must participate in the program through the end of the current three-year compliance period. If the facility, fuel supplier, or electricity importer demonstrates emissions below 25,000 tons of carbon dioxide equivalent during the entire three-year compliance period, or demonstrates that it has ceased the operations related to its emissions during the entire compliance period, then it is released from program participation responsibilities.

Entities Allowed to Participate in the Program.

A person that is responsible for GHG emissions but not required to participate in the program may voluntarily register with the ECY and participate in the program under the same compliance mechanisms as a required program participant. A person that elects to participate in the program may later opt out of the program. In addition, other persons may register to participate in the program as a general market participant. Tribal governments and federal agencies may participate in the program under either of these voluntary participation mechanisms.

GHG Emission Budgets.

The ECY must determine the expected total combined emissions from the required program participants. Based on the expected emissions of those entities, the ECY must adopt rules that establish annual budgets for the total number of allowances that will be auctioned to program participants. The ECY must set the total number of allowances such that the total combined emissions from the program's required participants meets those participants' combined share of the statewide emission reductions necessary for the state to achieve the GHG emission limits in state law. The combined share of emissions reductions is specified to be the proportion of required program participants' emissions relative to overall statewide emissions in 2016.

The state law establishing GHG emissions limits is amended to eliminate the references to 1990 levels and to instead specify the following numeric limits:

- by 2020, 88.4 million metric tons of carbon dioxide equivalent;
- by 2035, 66.3 million metric tons of carbon dioxide equivalent; and
- by 2050, 44.2 million metric tons of carbon dioxide equivalent.

The ECY must adhere to the following schedule for developing annual allowance budgets:

- By January 1, 2016, the ECY must establish budgets for calendar years 2016 and 2017.
- By January 1, 2017, the ECY must establish budgets for calendar years 2018 through 2026.
- After an evaluation of program performance that the ECY must conduct by the end of 2024, the ECY must adopt allowance budget rules for the years 2027 through 2036, by January 1, 2026.

The rules adopting the 2016-2017 and 2018-2026 allowance budgets must be accompanied by the submission of a report to the Legislature on the methodology used by the ECY to establish those budgets, including an analysis, with input from program participants, of available emissions reduction technologies.

The ECY must also adopt a rule that specifies the conditions under which it may revise annual allowance budgets; however, the ECY may not revise annual allowance budgets until after 2020.

Auctions of Emission Allowances.

Emission allowances are distributed to program participants by the ECY via auction. Auctions are open to entities that are required to participate in the program and entities that elect to participate in the program. Auctioned allowances must be sold for no less than a minimum sales price that the ECY adopts by rule. This price floor must increase every year through 2026. Individual program participants and interrelated entities are subject to volume limits on the allowances they may purchase at auction. Auction procedures must be designed to allow linkage with similar programs in other jurisdictions, and ECY may conduct joint auctions under a linkage agreement.

Procedural details of allowance auctions include:

- The ECY may hold up to four auctions per year, which are to be operated as a single round of sealed online bids during a three-hour window.
- Auctions may include the sale of allowances from the current year and unsold allowances from previous auctions, but future allowances must be auctioned separately.
- The ECY must hire an independent contractor to run the auctions, and a financial services administrator to manage the auction bid guarantees.
- Auction participants must not disclose information about their bid, in order to guard against collusion or market manipulation.

Separate from the general auction allowances, the ECY must also set aside 4 percent of all available allowances as a price-containment reserve designed to assist in containing the compliance costs of entities required to participate in the program. In general, reserve auctions are subject to the same procedures and auction proceed distributions as other allowance auctions, except that general market voluntary participants are not allowed to participate in the reserve auctions. In addition, the ECY must set a minimum sales price for allowances in reserve auctions in advance of the auction that is high enough to incentivize direct emissions reductions.

Offset Credits.

The ECY must adopt rules establishing protocols for offset projects that provide a credit equivalent to an emissions allowance for entities required to participate in the program. Offset projects must result in real, quantifiable, permanent, verifiable, and enforceable GHG emissions reductions that occur in addition to other existing requirements.

Through 2020, the ECY may only adopt offset protocols and allow offset credits for projects commencing after January 1, 2016, that:

- anaerobically digest organic waste;
- reduce ozone depleting substances;
- capture methane from mining and resource extraction activities; or
- sequester carbon through forestry or agriculture.

Offset credits must take place within the United States, Canada, or Mexico, and must be in addition to emissions reductions that would otherwise occur or be legally required. An entity required to participate in the program may submit offset credits for up to 8 percent of the emissions allowances that it would otherwise be required to submit.

In developing offset protocols, the ECY must work with the Department of Natural Resources to consider sequestration or emissions reduction opportunities associated with forestry and land management activities. Forestry and agriculture offset protocols must be developed in consultation with the Department of Natural Resources and the Department of Agriculture, must be unique to Washington, and must accredit the widest possible range of sequestration projects.

Oversight of the Allowance and Offset Credit Market.

Offset credits and auctioned allowances may be bought, sold, and transferred under rules the ECY is directed to adopt. The ECY is directed to contract with an independent organization to monitor the allowance and offset market, including the organization's development of a monitoring and security plan, auction review and auditing protocols, and trade, holding, and other market activity monitoring.

The ECY must create a financial advisory committee of market professionals to independently assess program performance and market monitoring mechanisms. The committee must provide an assessment to the ECY every two years, beginning July 1, 2018.

The ECY must use a secure online electronic system to track program registration, allowance and offset credit ownership, and other aspects of program compliance. This system must be the same system used by the GHG emission allowance trading programs in jurisdictions to which the state's program could link. This system must allow required and voluntary program participants to maintain an account that contains allowances or offset credits to be used to fulfill the participant's compliance obligations associated with their emissions. The system must also allow those same entities to maintain a second account containing the participant's allowances or offset credit holdings that it buys, sells, or trades. The ECY must also maintain an account in this system that it must use to receive the submitted allowances and offset credits from program participants and to subsequently retire the credits from the possibility of future use.

Uses of Allowance Auction Revenue.

The Carbon Pollution Reduction Account (Account) is created, and receives receipts from the auction of allowances. Account funds are distributed to the State General Fund and other specific accounts to pay for the purposes described below.

- Forty percent of Account monies, and up to \$400 million each fiscal year, support transportation system maintenance and safety and for transportation projects with a priority given to transit and GHG emission-reducing projects.

- Forty percent of Account monies, plus additional funds as needed to equal or exceed \$380 million per fiscal year, go to the Education Legacy Trust Account.
- Ten percent of Account monies, plus additional funds as needed to equal or exceed \$108 million per fiscal year, are distributed to the State General Fund to implement the Working Families Tax Rebate.
- Two percent of Account monies, and up to \$15.5 million in fiscal year 2017, \$19.5 million in fiscal year 2018, and \$20 million per fiscal year beginning in 2019, are distributed to the Washington Housing Trust Fund to provide loan and grant monies to organizations to provide housing for low-income and special needs populations
- Two percent of Account monies, plus additional funds as needed to exceed \$20 million per fiscal year, are distributed to fund a B&O tax credit available to energy-intensive and trade-exposed businesses subject to the B&O tax and covered by the program. These businesses are eligible for a B&O tax credit of up to half of the cost of obtaining their required allowances or offset credits. The Department of Commerce must adopt rules to identify and certify businesses eligible for the tax credit. Businesses may carry tax credits forward for up to 10 years. Credits are available on a first-in-time basis, meaning that filings for credits will be disallowed after the total amount allocated to the tax credit has been claimed. A statement of legislative intent to mitigate program participation impacts for certain energy-intensive and trade-exposed businesses is included for purposes of JLARC evaluation of the performance of the tax preference.
- Two percent of Account monies, plus additional funds as needed to equal or exceed \$20 million per fiscal year, are distributed for rural economic assistance programs to be identified or created by the Department of Commerce, working with the Department of Agriculture and the Department of Natural Resources.
- Remaining money in the Account is directed to the program administration costs of the ECY and other state agencies, and to investments in clean energy and to other programs that achieve GHG emission reductions.

Linkage to Other Carbon Market Programs.

The ECY is directed to adopt rules and implement the program in such a way so as to allow the state's program to be linked with other jurisdictions with similar carbon market programs. The ECY holds the authority to execute a linkage agreement with established market-based carbon emission reduction programs. Linkage agreements must include provisions addressing:

- quarterly auction eligibility and procedures;
- holding limits that ensure entities in a program are not disadvantaged relative to program participants in other participating jurisdictions;
- offset protocols;
- registration, reporting, oversight, administration, enforcement, and public participation; and
- dispute resolution and linkage agreement amendment or withdrawal.

The ECY must adopt a rule supported by peer-reviewed economic analysis prior to executing a linkage agreement with another jurisdiction's carbon emissions program. If the ECY does elect to execute a linkage agreement, Washington must still retain legal and policymaking authority over program design and enforcement.

Changes to GHG Emissions Reporting Requirements.

The ECY's GHG emissions reporting rules must support implementation of the program. Fuel suppliers required to report associated GHG emissions are expanded to include suppliers that supply all types of fuel whose combustion would exceed 10,000 metric tons of carbon dioxide equivalent each year. Electric power entities that supply electric power whose associated emissions exceed 10,000 metric tons must also report their GHG emissions to the ECY. Landfills, industrial wastewater treatment plants, and manure management activities are exempted from facility GHG reporting requirements.

The ECY may allow facility operators that are not required to participate in the program to submit abbreviated emission reporting data. Annual emissions reports continue to be due to the ECY by October 31, except for abbreviated reports, which are due on June 1. Local air authorities are not responsible for enforcing GHG emissions reporting requirements, which is a ECY responsibility.

The ECY may assign emissions levels for any entities that fail to submit a required GHG emissions report, after first attempting to provide assistance to the entity. The ECY must also establish a rule for verifying the accuracy of GHG emissions reports submitted by required program participants. Verification requirements must include third-party certification from a verification body certified by the ECY. Verification statements are due on September 1 for the preceding calendar year.

Other Aspects of Program Implementation.

The program's first compliance period is from July 1, 2016, through the end of 2017; all subsequent compliance periods last three years. During a compliance period, an entity required to participate in the program must turn over to the ECY emissions allowances or offset credits equal to their GHG emissions. Emissions allowances do not expire and may be banked towards future obligations.

Except for the first compliance period, in which all allowances and offset credits must be turned over to the ECY by November 1, 2018, the program requires allowances and offsets to be periodically turned in, over the course of the three-year compliance period:

- By November 1, 2019, and every three years afterwards, 30 percent of the allowances or offsets for the first year of the three-year compliance period must be turned in.
- By November 1, 2020, and every three years afterwards, 30 percent of the allowances or offsets for the second year of the three-year compliance period must be turned in.
- By November 1, 2021, and every three years afterwards, the program participant must submit to the ECY the remainder of the allowances or offset credits owed for the compliance period that ended on the preceding December 31.

Apart from the other rules to implement the program that the ECY is directed to adopt, the ECY also must adopt emergency rules to implement the 2015-2017 budget and to allow for program details to be determined in time to provide early notice to required program participants.

An economic justice and environmental equity advisory committee is created in the Governor's Office in order to periodically evaluate the socioeconomic effects of the program. The committee is comprised of citizen and community representatives. In support of this

committee, the ECY must conduct a study with the Department of Health using geospatial methods to identify communities of color as well as communities that are potentially subject to disproportionate impacts of climate changes and to the effects of carbon pollution reduction actions.

Beginning November 1, 2016, the ECY must submit a report on program implementation to the Governor and Legislature every two years. Beginning November 1, 2017, the ECY must also report to the Legislature and Governor every two years on the findings of the economic justice and environmental equity committee.

Financial, commercial, and proprietary information submitted to the ECY and the Department of Commerce and whose release would place the submitter at a competitive disadvantage is exempted from disclosure under the Public Records Act. Contractors working on the program must also comply with public disclosure restrictions.

Penalties, Enforcement, and Appeals.

If the ECY determines that a required program participant has not submitted a sufficient number of allowances or offset credits by the required deadlines, the participant is subject to a penalty. If a participant fails to submit an allowance or offset credit, it must subsequently submit four allowances or offset credits within six months, one of which must be retired and three of which may be subsequently reauctioned by the ECY. If the participant fails to submit the four penalty allowances or offset credits within six months, the ECY may issue a civil penalty of up to \$10,000 per day per penalty. The ECY may also issue an order or a civil penalty of up to \$10,000 per day for failure to comply with other program requirements. During the first compliance period ending December 31, 2017, the ECY may reduce these penalty amounts. Payments for penalties are deposited into the State General Fund.

Civil penalties and orders issued by the ECY are appealable to the PCHB.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- The combined share of emissions reductions by program participants, which forms the basis of the program's overall allowance budgets, is specified to be equal to the proportion of required program participants' emissions relative to overall statewide emissions in 2016.
- Program participation is required for persons that purchase electricity from a federal power market agency, if the emissions associated with facility operations and purchased electricity exceed 25,000 tons of carbon dioxide equivalent a year.
- Multiple entities may not be held responsible for the compliance obligation associated with the same emissions.
- The compliance obligation for natural gas received by a facility in the program is attributed to the facility rather than to the natural gas supplier.
- A refinery facility is defined as a facility owned by a person that is also a fuel supplier, and a refinery facility's compliance obligation is specified to include both the facility's emissions and the emissions of the fuel it supplies.

- Fuel suppliers that receive fuel from a refinery facility may subtract those emissions from counting towards their emissions totals for compliance purposes, upon demonstration of the source of their fuel to the ECY.
- Imported electricity from a source owned by the importer or with which the importer has a contract is assigned an emissions amount based on the generating facility's emissions; however, imported electricity from other sources is assigned an associated emissions level through a Department of Commerce rule.
- The economic justice and environmental equity advisory committee is made a Governor-appointed committee, rather than an ECY-appointed committee, and the Department of Health must be consulted in the geographic analysis of impacted communities completed to support the advisory committee's work.
- Financial, commercial, and proprietary information in the possession of the Department of Commerce is added to the records that are exempt from public disclosure under the Public Records Act.
- The reporting of GHG emissions by federal power market agencies is made voluntary rather than mandatory.
- The state law establishing GHG emissions limits is amended to eliminate the references to 1990 levels and to instead specify numeric limits of 88.4 million metric tons of carbon dioxide equivalent by 2020, 66.3 million metric tons of carbon dioxide equivalent by 2035; and 44.2 million metric tons of carbon dioxide equivalent by 2050.
- The ECY is required to adopt a rule supported by peer-reviewed economic analysis prior to executing a linkage agreement with another jurisdiction's carbon emissions program.
- Forestry and agriculture offset protocols must be developed in consultation with the Department of Natural Resources and the Department of Agriculture, must be unique to Washington, and must accredit a wide range of sequestration projects.
- Emissions from aviation fuels combusted in interstate and international flights are exempted from the program.
- The requirement that the state's reporting data be consistent with data submitted to the EPA is restored, along with the October 31 reporting deadline for entities required to participate in the program.
- The ECY's rules for adopting the 2016-2017 and 2018-2026 allowance budgets must be accompanied by the submission of a report to the Legislature on the methodology used to establish those budgets, including an analysis, with input from program participants, of available emissions reduction technologies.
- The ECY must first attempt to provide assistance to an entity that has failed to submit emissions data prior to assigning an emissions level to the entity.
- Program participation requirements for new or modified facilities may only be triggered by the facility's exceedance of the annual emissions threshold and not as a result of ECY notification that the entity's emissions are expected to exceed the threshold.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on February 18, 2015.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately, except for section 26 relating to the jurisdiction of the pollution control hearings board, which takes effect June 30, 2019.

Staff Summary of Public Testimony:

(In support) Climate change is having numerous, real, and negative environmental and social impacts, including fire, drought, ocean acidification, and asthma. Climate change will continue to get worse, and cause a problem for future generations. This bill is the most important policy the Legislature will consider this year. Social change is needed, and inaction on climate change is already costly and should not be an option. The state has a moral obligation to take action to protect the environment and the earth from climate change. Reducing greenhouse gases also reduces other sources of air pollutants that cause numerous public health problems. There will be public health and economic benefits, including new kinds of jobs created by transitioning the state's economy to be low-carbon. Requiring polluters to pay for their greenhouse gas emissions is an equitable solution, and gives them an incentive to reduce the amount of carbon dioxide that their activities are responsible for generating. A price signal reflecting the impacts of carbon emissions is an idea out of textbook economics, and is needed to incentivize behavior change by individuals. Green building, alternative energy, and other new job growth spurred by the bill will offset any negative economic effects and job losses. The fossil fuel industry should be run out of business. Claims of cost increases from the bill are inflated, and don't reflect an innovative attitude. The outdoor recreation industry creates \$20 billion dollars of economic activity, and is dependent on snow and good environmental health at risk from climate change. The program in this bill would round out the numerous efforts the state has already taken to lower greenhouse gas emissions by providing a financial incentive for emission reductions. The program also provides badly-needed funding for important state programs like transportation, public housing, and education. Climate change is a social and racial justice issue because its greatest impacts fall on low-income and vulnerable communities. Those who have done the least to cause the global problem have the most to lose. It is appropriate to direct some of the revenue from this climate change policy towards supporting those most affected by climate change. This bill supports working people. The bill's revenue should be used to support public lands. This bill helps students from both a public health and funding standpoint.

(Neutral) The price of food and other goods will increase. Inaction is not an option. We must act bipartisanly and lead.

(Other) A cap and trade program would have a very volatile price, and would cause uncertainty for businesses without offering real certainty of emissions reductions because the State will change the program if prices rise too much. The program may not deliver as much revenue as promised.

(With concerns) The price of food and other goods will increase. Inaction is not an option. We must act bipartisanly and lead. Natural gas is a clean, low-cost fuel, but it is penalized under the bill even though there aren't cleaner viable alternatives. This bill is not the best

way to reduce the state's greenhouse gas emissions. Energy efficiency and increasing the use of natural gas are better ways to reduce emissions. The bill places too much burden on utility ratepayers and fuel users. This bill will put businesses at a competitive disadvantage in a global market, and will lead to job loss. This bill would have lots of unintended consequences in the economy. It is difficult to attribute a certain amount of emissions to much of the electricity bought and sold on the grid in electric power markets. A gas tax is a better way to fund transportation projects. There is no guarantee that the revenues raised by this program would always be spent in the same way that the bill currently proposes. Industry has already taken steps to reduce its emissions, and it has already cost a lot of jobs.

(Opposed) Washington businesses will be at a competitive disadvantage from this bill because they will be required to purchase costly allowances or because their electric and gas utility rates will increase. Climate change is a real problem, and should be acted on, but this bill is not the best solution for Washington. Transportation, electricity, and other costs of doing business will go up. Many types of Washington businesses face a competitive global marketplace and slim profit margins, are trade-dependent, and are very sensitive to changes in energy prices. The businesses and utilities that have to pay for allowances will simply pass down their costs to customers. Many smaller businesses that are utility or transportation fuel customers will not be able to pass their added costs off to customers, and will have to absorb the increased costs. The bill will have unintended but certain and foreseeable negative consequences, like Washington jobs moving to other states with larger carbon footprints and fewer environmental regulations. Low-income people will face added costs from utility bills and home heating fuel costs. Rural areas will be hurt by higher transportation costs. Aircraft fuels should be exempt from the bill; they are preempted by federal regulation and are exempted in California. Washington already has a clean energy profile, and Washington businesses are already innovating and taking other measures to reduce their emissions. Everyone in the state will be affected, not just the 130 big polluters on the Department of Ecology's list of likely program participants. Affected businesses are responsible for many good, union, family-wage jobs, including most of the state's manufacturing jobs.

Persons Testifying: (In support) Representative Fitzgibbon, prime sponsor; Chris Davis, Office of the Governor; Clifford Traisman, Washington Environmental Council and Washington Conservation Voters; Jeff Johnson, Washington State Labor Council; Brenna Davis, Virginia Mason; Renee Klein, American Lung Association; Rich Stolz, One America; Tony Lee, Asian Pacific Islander Coalition; Shawn Lewis, Washington Education Association; Adam Glickman, Service Employees International Union 775; Marc Berejka, Recreational Equipment, Incorporated; Virninder Singh, EDF Renewable Energy; DeSean Quinn, City of Tukwila; Stacy Smedley, Skanska; Ross Freeman, Steven's Pass Mountain Resort; Mauricio Ayon, Washington Community Action Network; Kate Baber, Washington Low Income Housing Alliance; Margaret Montgomery, NBBJ Design; Sarah Cherin, United Food and Commercial Workers International Union 21; Megan Smith, King County Executive; Dan Clarkson, Energy Efficiency Finance Corporation; Marilyn Cornwell, Church of the Ascension; Jessica Zimmerle, Earth Ministry; Craig Kenworthy, Puget Sound Clean Air Agency; J.J. McCoy, Northwest Energy Coalition; Mary Moore, League of Women Voters of Washington; Harriet Amman League of Conservation Voters; Dennis Rhodes;

Nancy Bartr-Krofft; Don Orange, Hoesly Eco Auto; Jen Sterlitz, Audobon Washington; Sam Merrill, Black Hills Audobon; and Atul Deshmane, Whole Energy Fuels Corporation.

(Neutral) Dune Ives, Vulcan.

(Other) Todd Myers, Washington Policy Center.

(With concerns) Tim Boyd, Industrial Customers of Northwest Utilities; Chris McCabe, Northwest Pulp and Paper Association; Dave Warren, Washington Public Utilities District; Lisa Thatcher, Clark Public Utilities; Dan Coyne, Northwest Food Processors Association; Duke Schaub, Associated General Contractors; Greg McClure, International Union of Operating Engineers Local 612; and Ed Finkley, Northwest Industrial Gas Users.

(Opposed) Kris Johnson, Association of Washington Business; Amy Igloi Creed, Amy's on the Bay; Gary Ash, National Frozen Foods Corporation; Terry Willis, Independent Farmer; Jack Fields, Washington Cattleman Association; Matthew Lyons, Nucor Steel Seattle; Rusty Bradeen, Rusty Bradeen Trucking; Jeff Lewellen, Iron Workers Union Local 86; Christine Brewer, Avista; Doug Krapas, Inland Empire Paper; Alex Menotti, Airlines for America; Jimmy Hawn, Association of Western Pulp & Paper; Steve Clark, Genesee Fuel & Heating Company; Christophe Allen, Acme Fuel; Frank Pupo, Associated Petroleum Products; Joe King, Teamster Local 174; Mary Hath Spokane; and Evan Sheffels, Washington Farm Bureau.

Persons Signed In To Testify But Not Testifying: Bourtai Hargrove and Patricia Aittolin, Olympia Fellowship of Reconciliation, Climate Group; Kathleen Patton and LeeAnne Beres, Earth Ministry St. Stephens Church; Eric Berman, Element 8 and Environmental Entrepreneurs; Dimitri Groce, Puget Sound Sage; Tim Norgren, Laborer's 320 and Columbia Gorge Climate Action Network; Art Wang, Tahoma Audobon Society; R. Court Olson, Alliance for Jobs and Clean Energy; Rhonda Hunter, Climate Concerned Citizen; Peter Bloch Garcia, Progreso; Dan Pike, Big Picture, Long Term; Kelly Thompson and Jolinda Stephens, Unitarian Universalist Voices for Justice; Bob Aegerter, self; Jessie Dye, Earth Ministry; Ross Macfarlane, Climate Solutions; Becky Kelley, Washington Environmental Council; Rick Samya, Side-Line Beekeeper; Stan Gent, Enwave Seattle; Ian Tolleson, Northwest Food Processors; Tom Young, Northwest Concrete Masonry Association; Krystal Kyer, Tahoma Audobon; Shannon Murphy, Washington Conservation Voters; Bryce Yadon, Futurewise; Patricia Neville; Tara Villallon, Community to Community; Don Dorango, Hoesly Eco Auto; Nick Federici, Washington United for Fair Revenue; Joanna Schoettler, Emerald Grove; Donna Albert, 350.org and for Climate; Steven Aldrich, Friends Committee on Washington Public Policy; Eric Berman, Environmental Entrepreneurs; Bob Couenther, International Brotherhood of Electrical Workers 77; and John Rietz.