

2SSB 5126 - S AMD 558  
By Senator Carlyle

ADOPTED 04/08/2021

1 On page 1, line 14, after "time." insert "Actions to increase  
2 resilience of our communities, natural resource lands, and ecosystems  
3 can prevent and reduce impacts to communities and our environment and  
4 improve their ability to recover."

5 On page 2, line 23, after "(5)" insert "The legislature further  
6 finds that wildfires have become one of the largest sources of black  
7 carbon in the last five years. From 2014 through 2018, wildfires in  
8 Washington state generated 39,200,000 metric tons of carbon, the  
9 equivalent of more than 8,500,000 cars on the road a year. In 2015,  
10 when 1,130,000 acres burned in Washington, wildfires were the second  
11 largest source of greenhouse gas emissions releasing 17,975,112  
12 metric tons of carbon dioxide into the atmosphere. This pollution  
13 affects all Washingtonians, but falls disproportionately on low-  
14 income communities, communities of color, and the most vulnerable of  
15 our population. Restoring the health of our forests and investing in  
16 wildfire prevention and preparedness will therefore contribute to  
17 improved air quality and improved public health outcomes.

18 (6) "

19 Renumber the remaining subsection consecutively and correct any  
20 internal references accordingly.

21 On page 9, line 2, after "Washington" strike "has a linkage  
22 agreement" and insert "is linked"

23 On page 9, beginning on line 13, after "electricity"" strike all  
24 material through "are" on line 14 and insert "means electricity,  
25 other than that from in-state facilities, that contributes to a  
26 common system power pool that is"

27 On page 9, line 23, after "decision" insert "under a linkage  
28 agreement"

1 On page 12, beginning on line 16, after "methods" strike all  
2 material through "may" on line 20 and insert "; and the department  
3 must"

4 On page 12, line 28, after "act" insert "and the allocation of  
5 allowances at no cost under section 12 of this act"

6 On page 12, line 30, after "linkage" strike "agreement"

7 On page 12, after line 32, insert the following:

8 "(c) Actions imposed under this section may not impose  
9 requirements on covered entities or opt-in entities that are  
10 disproportionate to their contribution to air pollution compared to  
11 other sources of criteria pollutants in the overburdened community."

12 On page 14, line 38, after "linkage" strike "agreements"

13 On page 17, at the beginning of line 28, strike "enter into  
14 linkage agreements" and insert "are linked"

15 On page 19, at the beginning of line 12, strike "2028" and insert  
16 "2027"

17 On page 19, line 23, after "limits." insert "The department shall  
18 determine and make public the circumstances, metrics, and processes  
19 that would initiate the public consideration of additional program  
20 adjustments to ensure successful achievement of the emission  
21 reduction limits."

22 On page 23, after line 4, insert the following:

23 "(9) (a) The legislature intends to promote a growing and  
24 sustainable economy and to avoid leakage of emissions from  
25 manufacturing to other locations. The legislature further intends to  
26 see innovative new businesses locate and grow in Washington that  
27 contribute to Washington's prosperity and environmental objectives.

28 (b) Consistent with the intent of the legislature to avoid the  
29 leakage of emissions to other jurisdictions, in achieving the state's  
30 greenhouse gas limits in RCW 70A.45.020, the state shall pursue the  
31 limits in a manner that recognizes that the siting and placement of  
32 new best-in-class facilities that provide for the displacement of  
33 more carbon intensive processes is in the economic and environmental  
34 interests of the state of Washington.

1 (c) For new or expanded facilities that require review under  
2 chapter 43.21C RCW and which would result in annual greenhouse gas  
3 emissions in excess of 25,000 metric tons per year, the department  
4 must evaluate the net cumulative greenhouse gas emissions of the  
5 facility, attributing any net displacement of global emissions  
6 resulting from the project in the department's decision making. The  
7 department may adopt rules to determine how to evaluate net  
8 cumulative emissions reductions.

9 (d) The limits in RCW 70A.45.020 or greenhouse gas emissions that  
10 are addressed in this chapter may not be the basis for denial of a  
11 permit application or for judicial review of the grant of a permit  
12 for a new or expanded emissions-intensive and trade-exposed facility.

13 (e) Compliance with the requirements of this chapter is the only  
14 mitigation for greenhouse gases that can be required by any state  
15 agency, city, town, county, township, other subdivision, or municipal  
16 corporation of the state from these facilities.

17 (f) Inclusion as a covered or an opt-in entity under this chapter  
18 constitutes adequate mitigation of any significant adverse impacts  
19 with respect to greenhouse gases for a facility subject to the  
20 requirements of chapter 43.21C RCW."

21 On page 25, line 34, after "must" strike "first"

22 On page 26, line 1, after "must" strike "first"

23 On page 26, line 8, after "must" strike "first"

24 On page 26, line 16, after "must" strike "first"

25 On page 26, line 24, after "act." insert "The deposits into the  
26 forward flexible account pursuant to (a) through (d) of this  
27 subsection must be prorated equally from the proceeds of each of the  
28 auctions occurring during each fiscal year."

29 On page 27, line 29, after "other" insert "linked"

30 On page 27, at the beginning of line 30, strike "with which it  
31 has a linkage agreement"

32 On page 27, line 32, after "(1)" strike "A" and insert  
33 "Facilities owned or operated by a"

1       On page 27, line 33, after "allowances" insert "for the covered  
2 emissions at those facilities"

3       On page 27, line 34, after "if the" strike "entity is" and insert  
4 "operations of the facility are"

5       On page 28, line 38, after "periods." strike "An entity" and  
6 insert "A facility"

7       On page 28, line 40, after "trade-exposed" strike "entity" and  
8 insert "facility"

9       On page 29, line 8, after "to" strike "an entity" and insert "a  
10 facility"

11       On page 29, line 10, after "the" strike "covered entity's" and  
12 insert "facility's"

13       On page 29, line 18, after "than" insert "when using"

14       On page 29, line 20, after "to the" insert "quantity of  
15 allowances resulting from using the"

16       On page 29, line 32, after "circumstances, the" strike "entity"  
17 and insert "facility"

18       On page 29, line 35, after "between" strike "an entity" and  
19 insert "a facility"

20       On page 31, line 7, after "trade-exposed" strike "entity" and  
21 insert "facility"

22       On page 31, beginning on line 31, after "to" strike "an entity"  
23 and insert "facilities"

24       On page 32, line 4, after "provided to" insert "facilities owned  
25 or operated by"

26       On page 40, line 7, after "in a" insert "linked"

27       On page 40, beginning on line 7, after "jurisdiction" strike all  
28 material through "understanding" on line 8

1 On page 40, line 37, after "has" strike "entered or proposes to  
2 enter a linkage agreement" and insert "linked"

3 On page 42, after line 2, insert the following:  
4 "(7) Beginning in 2031, the limits established in subsection (3)  
5 of this section apply unless modified by rule as adopted by the  
6 department after a public consultation process."

7 On page 48, line 2, after "sequestration" insert "by protecting  
8 and planting trees"

9 On page 48, line 2, after "marine" insert "shorelines"

10 On page 48, at the beginning of line 3, strike "through forest  
11 management"

12 On page 53, line 27, after "has" strike "a linked agreement in  
13 effect" and insert "linked"

14 On page 54, line 7, after "for" insert "linked"

15 On page 54, beginning on line 7, after "jurisdictions" strike all  
16 material through "act" on line 8

17 Beginning on page 56, line 20, strike all of section 26

18 Renumber the remaining sections consecutively and correct any  
19 internal references accordingly.

EFFECT: (1) Adds intent language regarding wildfires as a source of black carbon.

(2) Clarifies the definition of imported electricity for a multijurisdictional electric company to mean electricity, other than from in-state facilities, that contributes to a common system power pool that is allocated to serve retail load in Washington.

(3) If criteria pollutant reductions are not occurring in identified overburdened communities, provides that the department must, rather than may, adopt stricter air quality standards, emission standards, or emissions limitations; reduce offset limits; or revise a linkage agreement.

(4) Adds reduction of the allocation of no cost allowances to an emissions-intensive trade-exposed facility as one of the options of actions that the department may take, if a covered entity is identified as a high priority emitter of criteria pollutants and the department finds that criteria pollutants are not being reduced in an identified overburdened community.

(5) Moves up the first program evaluation one year from December 2028 to 2027.

(6) Directs the department to determine and make public the circumstances, metrics, and processes that would initiate the public consideration of additional program adjustments to ensure successful achievement of the emission reduction limits.

(7) Clarifies that new or expanded facilities' compliance with the cap and invest program is the only mitigation for greenhouse gases that can be required by any state agency, city, town, county, township, other subdivision, or municipal corporation of the state from these facilities.

(8) Makes technical changes and removes section 26, related to consistency with review of new facilities.

(9) Directs that the deposits into the forward flexible account and climate investment account be prorated equally from the proceeds of each auction occurring during the fiscal year.

(10) Clarifies that emissions-intensive trade-exposed facilities, rather than entities, receive no cost allowances under the program.

(11) Specifies that the offset credit limits for the second compliance period applies unless the department modifies them by rules after a public consultation process.

(12) Clarifies that programs, activities, or projects funded from the climate investment account may include those that preserve and/or establish carbon sequestration by protecting and planting trees in marine shorelines and freshwater riparian areas, and removes the reference to forest management.

(13) Clarifies that "linkage" means a bilateral or multilateral decisions under a linkage agreement between greenhouse gas market programs and modifies references to linkage or the actual linkage agreement throughout.

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