

# Senate Bill 965

Sponsored by Senators DEMBROW, SHIELDS, STEINER HAYWARD, BATES, Representatives BUCKLEY, BARNHART, GORSEK, HELM; Senator RILEY, Representatives NOSSE, TAYLOR (at the request of Oregon Climate)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Environmental Quality Commission to adopt greenhouse gas cap-and-dividend program to reduce statewide greenhouse gas emissions to meet certain benchmarks adopted by commission. Establishes auction for allowances under program. Directs certain proceeds from allowances to be deposited in Pollution Refund Credit Trust Fund.

Establishes Pollution Refund Credit Trust Fund.

Distributes moneys collected from auction to personal income taxpayers and their dependents in equal shares.

Appropriates moneys from General Fund to Department of Revenue and Environmental Quality Commission for purpose of establishing cap-and-dividend program and funding first year of auction.

Aligns greenhouse gas emissions reductions goals for certain other state programs with benchmarks established under cap-and-dividend program.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to climate protection; creating new provisions; amending ORS 184.889, 468A.235, 468A.240, 468A.250 and 468A.260 and section 9, chapter 751, Oregon Laws 2009; repealing ORS 468A.205; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

## CLIMATE PROTECTION ACT

**SECTION 1.** Sections 2 to 7 of this 2015 Act shall be known and may be cited as the Climate Protection Act.

**SECTION 2.** The Legislative Assembly finds and declares that:

(1) The effects of climate change caused by greenhouse gas emissions threaten to have significant detrimental impacts on public health and the economic vitality, natural resources and environment of this state. Climate change will have impacts on fresh water resources, industry, agriculture, forest resources, marine ecosystems and human health.

(2) The effects of climate change are beginning, and significant actions are required to reduce emissions and prevent or mitigate the effects of climate change.

(3) In the absence of effective national engagement, it is the responsibility of the individual states, deemed to be the laboratories of process, to take action to address climate change.

(4) By exercising a leadership role in addressing climate change, Oregon will position its economy to benefit from the national and international efforts that must occur to reduce greenhouse gas emissions and will encourage other states, the federal government and the international community to act. It is therefore the intent of the Legislative Assembly to re-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **duce greenhouse gas emissions through legally binding regulatory mechanisms.**

2 **(5) A phased-in cap-and-dividend program established pursuant to sections 2 to 7 of this**  
3 **2015 Act will set a clear limit on greenhouse gas emissions, send a market signal to reduce**  
4 **emissions, will be revenue neutral, will stimulate investment in renewable energy and energy**  
5 **efficiency, will help position Oregon businesses to lead and benefit from the inevitable tran-**  
6 **sition away from fossil fuels and, by providing for an equal annual dividend to Oregon tax-**  
7 **payers and their dependents, will ensure that Oregon households can afford the energy they**  
8 **need while stimulating the economy.**

9 **SECTION 3. As used in sections 2 to 7 of this 2015 Act:**

10 **(1) “Allowance” means an authorization, issued by this state, to emit one ton of a**  
11 **greenhouse gas during a specified year as measured in carbon dioxide equivalent.**

12 **(2) “Carbon dioxide equivalent” means the quantity of a given greenhouse gas multiplied**  
13 **by a global warming potential factor.**

14 **(3) “Global warming potential factor” means the radiative forcing impact of one ton of a**  
15 **given greenhouse gas relative to an equivalent unit of carbon dioxide over a 100-year period,**  
16 **as reflected in units of carbon dioxide.**

17 **(4) “Greenhouse gas” has the meaning given that term in ORS 468A.210.**

18 **(5) “Offset” means a reduction in emissions of one ton of a greenhouse gas, as measured**  
19 **in carbon dioxide equivalent, that is not subject to the greenhouse gas cap-and-dividend**  
20 **program and that is used to offset greenhouse gas emissions subject to the cap-and-dividend**  
21 **program.**

22 **(6) “Source” means any source, or category of sources, of greenhouse gas emissions that**  
23 **emits greenhouse gases at a level of significance such that the Environmental Quality Com-**  
24 **mission determines that participation by the source in the program established by rule under**  
25 **section 4 of this 2015 Act will contribute to statewide greenhouse gas emissions reductions.**

26 **(7) “Statewide greenhouse gas emissions” means the total annual emissions of**  
27 **greenhouse gases in this state, expressed in tons of carbon dioxide and carbon dioxide**  
28 **equivalents, and all emissions of greenhouse gases from the generation of electricity gener-**  
29 **ated outside this state and delivered to and consumed in this state, accounting for trans-**  
30 **mission and distribution line losses.**

31 **SECTION 4. (1) The Environmental Quality Commission shall, after consulting with the**  
32 **Department of Environmental Quality, adopt by rule a greenhouse gas cap-and-dividend**  
33 **program to reduce statewide greenhouse gas emissions in an amount not to exceed the fol-**  
34 **lowing benchmarks:**

35 **(a) By 2020, achieve statewide greenhouse gas emissions levels that are equal to 1990**  
36 **levels.**

37 **(b) By 2030, achieve statewide greenhouse gas emissions levels that are 40 percent below**  
38 **1990 levels.**

39 **(c) By 2050, achieve statewide greenhouse gas emissions levels that are 85 percent below**  
40 **1990 levels.**

41 **(2) The commission shall adopt interim five-year statewide greenhouse gas emissions**  
42 **limits consistent with the greenhouse gas emissions reductions necessary to meet the limits**  
43 **for the years 2030 and 2050 as adopted under subsection (1) of this section.**

44 **(3) The commission may adjust the statewide greenhouse gas emissions limits adopted**  
45 **under this section as necessary to achieve goals consistent with best available science.**

1 (4) The greenhouse gas cap-and-dividend program shall include, but not be limited to:

2 (a) A declining cap on statewide greenhouse gas emissions from:

3 (A) Sources located in this state as specified by the commission;

4 (B) The generation and transmission of electricity used within this state; and

5 (C) The combustion of fuel within this state;

6 (b) A requirement that, beginning January 1, 2018, the following persons retire allow-  
7 ances or offsets equal to statewide greenhouse gas emissions subject to the cap established  
8 under paragraph (a) of this subsection that the commission determines are attributable to  
9 such persons:

10 (A) The owner or operator of a source specified by the commission pursuant to paragraph  
11 (a)(A) of this subsection;

12 (B) The importer, seller, deliverer or distributor of electricity for use in this state; and

13 (C) The importer, seller, deliverer or distributor of fuel for use in this state;

14 (c) Procedures for the trading and retirement of allowances and offsets;

15 (d) Requirements for record keeping and compliance reporting;

16 (e) Requirements for third-party verification of greenhouse gas emissions;

17 (f) Procedures for the commission to auction allowances to persons listed under para-  
18 graph (b) of this subsection in the manner provided for under section 5 of this 2015 Act;

19 (g) Procedures, protocols and limitations for the generation and retirement of offsets;  
20 and

21 (h) In addition to any other penalty provided by law, a requirement that any person that  
22 fails to retire allowances or offsets equal to its greenhouse gas emissions pursuant to para-  
23 graph (b) of this subsection must retire additional allowances for excess greenhouse gas  
24 emissions.

25 (5) In adopting rules pursuant to this section, the commission shall consider:

26 (a) Establishing applicability thresholds, exemptions and deferrals concerning the  
27 greenhouse gas cap-and-dividend system;

28 (b) Including greenhouse gas emissions from the production, transportation, storage and  
29 combustion of fuel used within this state in the emissions subject to the cap under sub-  
30 section (1) of this section, including but not limited to:

31 (A) Emissions from electricity and other fuel that is produced outside of this state;

32 (B) A best estimate of methane emissions due to leaks or other unintended or irregular  
33 releases of gases at the wellhead during the production of oil and natural gas; and

34 (C) Life cycle emissions associated with biofuels production other than biofuel production  
35 from forest waste or landfill gas, including but not limited to emissions due to the use of  
36 fertilizers and irrigation and changes in land use practices;

37 (c) Adopting criteria and procedures to certify providers of third-party verification ser-  
38 vices for greenhouse gas emissions;

39 (d) Authorizing the department to set additional annual emissions goals by economic  
40 sector as a method for minimizing the cost of compliance without diminishing the overall  
41 emissions reductions achieved by the program; and

42 (e) Establishing limits on the trading of allowances and offsets as part of the program.

43 (6) The department shall administer the greenhouse gas cap-and-dividend program.

44 **SECTION 5.** (1) The Department of Revenue shall, in cooperation with the Department  
45 of Environmental Quality, conduct an auction of the allowances provided for by rule under

1 section 4 of this 2015 Act. The Department of Revenue may conduct the auction in the  
 2 manner that it determines is best suited to maximize the return to the state on the sale of  
 3 allowances in subsequent auctions. The Department of Revenue shall announce a reserve bid  
 4 prior to conducting the auction. The reserve amount shall be at least 95 percent of the total  
 5 amount of the allowance. Moneys necessary to reimburse the Department of Revenue for  
 6 the actual costs incurred by the department in administering an auction, not to exceed 0.25  
 7 percent of auction proceeds, are continuously appropriated to the department. The Depart-  
 8 ment of Revenue shall deposit net receipts from the auction required under this section in  
 9 the suspense account provided for under section 6 of this 2015 Act.

10 (2) The Environmental Quality Commission, after consultation with the Department of  
 11 Revenue, shall adopt rules in order to ensure that the auction provided for under this section  
 12 meets the requirements and goals of the cap-and-dividend program provided for under sec-  
 13 tion 4 of this 2015 Act.

14 **SECTION 6.** (1) Moneys received by the Department of Revenue pursuant to the auction  
 15 provided for under section 5 of this 2015 Act shall be deposited in a suspense account created  
 16 pursuant to ORS 293.445. After the payment of the costs of the Department of Revenue and  
 17 the Department of Environmental Quality for the implementation and enforcement of  
 18 sections 2 to 7 of this 2015 Act and repayment of any funds borrowed to initiate implemen-  
 19 tation and enforcement of sections 2 to 7 of this 2015 Act, moneys in that account shall be  
 20 transferred to the Pollution Refund Credit Trust Fund established in section 7 of this 2015  
 21 Act.

22 (2) On or after September 1, but not later than September 30, of each year, all but \$50  
 23 million of the Pollution Refund Credit Trust Fund shall be distributed in equal shares to all  
 24 persons who are:

25 (a) Taxpayers who filed an Oregon personal income tax return for the immediately pre-  
 26 ceding tax year; or

27 (b) Dependents who are 18 years of age or younger and residing in this state, claimed by  
 28 taxpayers who filed an Oregon personal income tax return for the immediately preceding tax  
 29 year.

30 (3) Distributions required under this section shall be issued in the same manner as re-  
 31 funds are made under ORS 314.415.

32 **SECTION 7.** The Pollution Refund Credit Trust Fund is established in the State Treasury,  
 33 separate and distinct from the General Fund. Interest earned by the Pollution Refund Credit  
 34 Trust Fund shall be credited to the fund. Moneys in the fund are continuously appropriated  
 35 to the Department of Revenue for the payment of distributions as provided in section 6 of  
 36 this 2015 Act.

#### 37 38 REPEAL OF ORS 468A.205 AND CONFORMING AMENDMENTS

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40 **SECTION 8.** ORS 468A.205 is repealed.

41 **SECTION 9.** ORS 184.889 is amended to read:

42 184.889. (1) The Oregon Transportation Commission, after consultation with and in cooperation  
 43 with metropolitan planning organizations, other state agencies, local governments and stakeholders,  
 44 as a part of the state transportation policy developed and maintained under ORS 184.618, shall adopt  
 45 a statewide transportation strategy on greenhouse gas emissions to aid in achieving *[the]* greenhouse

1 gas emissions [*reduction goals*] **consistent with the benchmarks** set forth in [*ORS 468A.205*] **sec-**  
 2 **tion 4 of this 2015 Act.** The commission shall focus on reducing greenhouse gas emissions resulting  
 3 from transportation. In developing the strategy, the commission shall take into account state and  
 4 federal programs, policies and incentives related to reducing greenhouse gas emissions.

5 (2) The commission shall actively solicit public review and comment in the development of the  
 6 strategy.

7 **SECTION 10.** ORS 468A.235 is amended to read:

8 468A.235. The Oregon Global Warming Commission shall recommend ways to coordinate state  
 9 and local efforts to reduce greenhouse gas emissions in Oregon consistent with the **benchmarks**  
 10 **on** greenhouse gas emissions [*reduction goals*] established by [*ORS 468A.205*] **section 4 of this 2015**  
 11 **Act** and shall recommend efforts to help Oregon prepare for the effects of global warming. The Of-  
 12 fice of the Governor and state agencies working on multistate and regional efforts to reduce  
 13 greenhouse gas emissions shall inform the commission about these efforts and shall consider input  
 14 from the commission for such efforts.

15 **SECTION 11.** ORS 468A.240 is amended to read:

16 468A.240. (1) In furtherance of the greenhouse gas emissions [*reduction goals*] **benchmarks** es-  
 17 tablished by [*ORS 468A.205*] **section 4 of this 2015 Act**, the Oregon Global Warming Commission  
 18 may recommend statutory and administrative changes, policy measures and other recommendations  
 19 to be carried out by state and local governments, businesses, nonprofit organizations or residents.  
 20 In developing its recommendations, the commission shall consider economic, environmental, health  
 21 and social costs, and the risks and benefits of alternative strategies, including least-cost options. The  
 22 commission shall solicit and consider public comment relating to statutory, administrative or policy  
 23 recommendations.

24 (2) The commission shall examine greenhouse gas cap-and-trade systems, including a statewide  
 25 and multistate carbon cap-and-trade system and market-based mechanisms, as a means of achieving  
 26 the greenhouse gas emissions [*reduction goals*] **benchmarks** established by [*ORS 468A.205*] **section**  
 27 **4 of this 2015 Act.**

28 (3) The commission shall examine possible funding mechanisms to obtain low-cost greenhouse  
 29 gas emissions reductions and energy efficiency enhancements, including but not limited to those in  
 30 the natural gas industry.

31 **SECTION 12.** ORS 468A.250 is amended to read:

32 468A.250. (1) The Oregon Global Warming Commission shall track and evaluate:

33 (a) Economic, environmental, health and social assessments of global warming impacts on  
 34 Oregon and the Pacific Northwest;

35 (b) Existing greenhouse gas emissions reduction policies and measures;

36 (c) Economic, environmental, health and social costs, and the risks and benefits of alternative  
 37 strategies, including least-cost options;

38 (d) The physical science of global warming;

39 (e) Progress toward **preventing exceedance of** the greenhouse gas emissions [*reduction goals*]  
 40 **benchmarks** established by [*ORS 468A.205*] **section 4 of this 2015 Act**;

41 (f) Greenhouse gases emitted by various sectors of the state economy, including but not limited  
 42 to industrial, transportation and utility sectors;

43 (g) Technological progress on sources of energy the use of which generates no or low  
 44 greenhouse gas emissions and methods for carbon sequestration;

45 (h) Efforts to identify the greenhouse gas emissions attributable to the residential and commer-

1 cial building sectors;

2 (i) The carbon sequestration potential of Oregon’s forests, alternative methods of forest man-  
 3 agement that can increase carbon sequestration and reduce the loss of carbon sequestration to  
 4 wildfire, changes in the mortality and distribution of tree and other plant species and the extent to  
 5 which carbon is stored in tree-based building materials;

6 (j) The advancement of regional, national and international policies to reduce greenhouse gas  
 7 emissions;

8 (k) Local and regional efforts to prepare for the effects of global warming; and

9 (L) Any other information, policies or analyses that the commission determines will aid in the  
 10 achievement of the greenhouse gas emissions [*reduction goals*] **benchmarks** established by [*ORS*  
 11 *468A.205*] **section 4 of this 2015 Act.**

12 (2) The commission shall:

13 (a) Work with the State Department of Energy and the Department of Environmental Quality  
 14 to evaluate all gases with the potential to be greenhouse gases and to determine a carbon dioxide  
 15 equivalency for those gases; and

16 (b) Use regional and national baseline studies of building performance to identify incremental  
 17 targets for the reduction of greenhouse gas emissions attributable to residential and commercial  
 18 building construction and operations.

19 **SECTION 13.** ORS 468A.260 is amended to read:

20 468A.260. The Oregon Global Warming Commission shall submit a report to the Legislative As-  
 21 sembly, in the manner provided by ORS 192.245, by March 31 of each odd-numbered year that de-  
 22 scribes Oregon’s progress toward [*achievement*] **preventing exceedance** of the greenhouse gas  
 23 emissions [*reduction goals*] **benchmarks** established by [*ORS 468A.205*] **section 4 of this 2015**  
 24 **Act.** The report may include relevant issues and trends of significance, including trends of  
 25 greenhouse gas emissions, emerging public policy and technological advances. The report also may  
 26 discuss measures the state may adopt to mitigate the impacts of global warming on the environment,  
 27 the economy and the residents of Oregon and to prepare for those impacts.

28 **SECTION 14.** Section 9, chapter 751, Oregon Laws 2009, is amended to read:

29 **Sec. 9.** (1) The Public Utility Commission shall develop estimates of the rate impacts for electric  
 30 companies and natural gas companies to meet the following alternative greenhouse gas emission  
 31 reduction goals for 2020:

32 (a) Ten percent below 1990 levels, as specified in [*ORS 468A.205*] **section 4 of this 2015 Act**;  
 33 and

34 (b) Fifteen percent below 2005 levels.

35 (2) The commission shall submit a report presenting the estimates and explaining the analysis  
 36 used to develop the estimates to the appropriate interim committee of the Legislative Assembly prior  
 37 to November 1 of each even-numbered year.

38  
 39 **OPERATIVE DATE**

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 41 **SECTION 15.** (1) Sections 1 to 7 of this 2015 Act, the repeal of ORS 468A.205 by section  
 42 8 of this 2015 Act and the amendments to ORS 184.889, 468A.235, 468A.240, 468A.250 and  
 43 468A.260 and section 9, chapter 751, Oregon Laws 2009, by sections 9 to 14 of this 2015 Act  
 44 become operative on January 1, 2017.

45 (2) The Environmental Quality Commission shall, no later than December 31, 2016, adopt

1 rules necessary to ensure that a greenhouse gas cap-and-dividend program pursuant to  
2 sections 4 and 5 of this 2015 Act will be implemented on the operative date specified in sub-  
3 section (1) of this section.

4 **SECTION 16.** (1) In addition to and not in lieu of any other appropriation, there is ap-  
5 propriated to the Department of Revenue for the biennium beginning July 1, 2015, out of the  
6 General Fund, the amount of \$\_\_\_\_\_, which may be expended for the purpose of funding  
7 the first year of administration of the auction imposed under section 5 of this 2015 Act.

8 (2) In addition to and not in lieu of any other appropriation, there is appropriated to the  
9 Environmental Quality Commission, for the biennium beginning July 1, 2015, out of the  
10 General Fund, the amount of \$\_\_\_\_\_, which may be expended for the purpose of assisting  
11 the commission in establishing the cap-and-dividend program provided for under sections 4  
12 and 5 of this 2015 Act.

13  
14 **UNIT CAPTIONS**  
15

16 **SECTION 17.** The unit captions used in this 2015 Act are provided only for the conven-  
17 ience of the reader and do not become part of the statutory law of this state or express any  
18 legislative intent in the enactment of this 2015 Act.

19 **SECTION 18.** This 2015 Act takes effect on the 91st day after the date on which the 2015  
20 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.  
21