

House Bill 3470

Sponsored by Representative BARNHART

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 by rule statewide greenhouse gas emissions limits for years 2020 and 2050 and to adopt interim statewide greenhouse gas emissions limits consistent with 2050 limit every five years.

Requires commission to adopt action plan for ensuring statewide greenhouse gas emissions do not exceed limits adopted by commission.

Requires commission to adopt program to ensure statewide greenhouse gas emissions do not exceed limits adopted by commission. Requires Department of Environmental Quality to administer program.

Authorizes department to require registration and reporting by certain sources of greenhouse gas emissions.

Establishes required timeline for adopting rules under provisions of Act.

Repeals provisions relating to greenhouse gas emissions goals. Makes repeal operative January 1, 2017.

A BILL FOR AN ACT

1
2 Relating to greenhouse gas emissions; creating new provisions; amending ORS 184.889, 468A.235,
3 468A.240, 468A.250 and 468A.260 and section 9, chapter 751, Oregon Laws 2009; and repealing
4 ORS 468A.205.

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

6 **SECTION 1. Sections 3 to 9 of this 2015 Act shall be known and may be cited as the Cli-**
7 **mate Stability and Justice Act of 2015.**

8 **SECTION 2. Sections 3 to 9 of this 2015 Act shall be added to and made a part of ORS**
9 **chapter 468A.**

10 **SECTION 3. The Legislative Assembly finds and declares that:**

11 (1) **The effects of global warming and ocean acidification caused by greenhouse gas**
12 **emissions threaten to have significant detrimental impacts on public health and the eco-**
13 **nomical vitality, natural resources and environment of this state.**

14 (2) **The diverse impacts of global warming and ocean acidification include the**
15 **exacerbation of air quality problems, a reduction in the quantity and quality of water avail-**
16 **able to this state from mountain snowpack, a rise in sea levels resulting in the displacement**
17 **of thousands of coastal businesses and residences, damage to marine ecosystems and food**
18 **sources, degradation of the natural environment from increased severity of forest fires and**
19 **pest infestations of stressed land based ecosystems, extreme weather events and an increase**
20 **in the incidences of infectious diseases, asthma and other human health-related problems.**

21 (3) **Global warming and ocean acidification will have detrimental effects on some of this**
22 **state's most important industries, including agriculture, forestry, commercial fishing, re-**
23 **creation and tourism. Global warming will also strain the electricity and domestic water**
24 **supplies that are necessary for economic stability and the most basic levels of human well-**
25 **being and survival.**

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 (4) National and international actions are necessary to fully address global warming and
 2 ocean acidification. National actions in the United States, however, are emerging too slowly
 3 to address the scope, magnitude and urgency of the problem. Because many greenhouse
 4 gases persist in the atmosphere for millennia, the costs of early policy inaction will be se-
 5 vere. In the absence of effective national engagement, it is the responsibility of the individual
 6 states, deemed to be the laboratories of process, to take immediate, leadership actions to
 7 address global warming and ocean acidification.

8 (5) By exercising a leadership role in addressing global warming and ocean acidification,
 9 the State of Oregon will position its economy, technology centers, financial institutions and
 10 businesses to benefit from the national and international efforts that must occur to reduce
 11 greenhouse gas emissions. By joining together with other neighboring leadership jurisdictions
 12 that present similar resolve to address global warming and ocean acidification, this state will
 13 play a role in encouraging more states, the federal government and the international com-
 14 munity to act.

15 (6) The climate crisis is pressing. It is therefore the intent of the Legislative Assembly
 16 to obtain greenhouse gas emission reductions through legally binding regulatory mech-
 17 anisms.

18 **SECTION 4. As used in sections 3 to 9 of this 2015 Act:**

19 (1) “Allowance” means an authorization to emit, during a specified year, up to one ton
 20 of carbon dioxide equivalent.

21 (2) “Alternative compliance mechanism” means a flexible compliance schedule, alterna-
 22 tive control technology, process change, product substitution or other, similar action
 23 undertaken by a greenhouse gas emission source that achieves the equivalent reduction of
 24 greenhouse gas emissions over the same time period as would be achieved by a direct emis-
 25 sions reduction.

26 (3) “Carbon dioxide equivalent” means the global warming potential of a greenhouse gas
 27 reflected in units of carbon dioxide.

28 (4) “Cost-effective” or “cost-effectiveness” means the cost per unit of reduced
 29 greenhouse gas emissions adjusted for the global warming potential of each unit of reduced
 30 greenhouse gas emissions.

31 (5) “Direct emissions reduction” means a greenhouse gas emission reduction action made
 32 by a source at that source.

33 (6) “Emissions reduction measure” means programs, measures, standards and alternative
 34 compliance mechanisms that are applicable to sources and are designed to reduce
 35 greenhouse gas emissions.

36 (7) “Greenhouse gas” means any gas that has contributed to anthropogenic global
 37 warming, including but not limited to carbon dioxide, methane, nitrous oxide,
 38 hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

39 (8) “Responsible state agencies” means all state agencies with jurisdiction over sources
 40 of greenhouse gases, including but not limited to the Environmental Quality Commission, the
 41 Department of Environmental Quality, the Public Utilities Commission, the State Depart-
 42 ment of Energy, the Department of Transportation and the Department of Land Conserva-
 43 tion and Development.

44 (9) “Source” means any source, or category of sources, of greenhouse gas emissions that
 45 emits greenhouse gases at a level of significance such that the Environmental Quality Com-

1 mission determines that participation by the source in the program established by rule under
 2 section 8 of this 2015 Act will contribute to statewide greenhouse gas emissions reductions.

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

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 9 **GREENHOUSE GAS EMISSIONS LIMITS AND ACTION PLAN**

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 11 **SECTION 5.** (1) The Department of Environmental Quality shall determine what the
 12 statewide greenhouse gas emissions level was in 1990 and shall:

13 (a) Report its findings to the Governor, the Legislative Assembly and the Environmental
 14 Quality Commission; and

15 (b) Post its findings on the department’s website.

16 (2) The commission shall treat the 1990 statewide greenhouse gas emissions level as de-
 17 termined by the department under subsection (1) of this section as the baseline statewide
 18 greenhouse gas emissions level for adopting rules as required under sections 7 and 8 of this
 19 2015 Act.

20 **SECTION 6.** (1) The Environmental Quality Commission shall adopt by rule:

21 (a) A statewide greenhouse gas emissions limit for the year 2020 that is based on the best
 22 available science and that limits emissions to levels that are at least 10 percent below 1990
 23 levels; and

24 (b) A statewide greenhouse gas emissions limit for the year 2050 that is based on the best
 25 available science and that limits emissions to levels that are at least 75 percent below 1990
 26 levels.

27 (2) Beginning on July 1, 2017, and once every five years after that date, the commission
 28 shall adopt an interim, five-year statewide greenhouse gas emissions limit consistent with
 29 the greenhouse gas emissions reductions necessary to meet the greenhouse gas emissions
 30 limit for the year 2050 adopted under this section.

31 (3) The commission may adjust greenhouse gas emissions limits adopted under this sec-
 32 tion as necessary to achieve goals consistent with best available science.

33 **SECTION 7.** (1) The Environmental Quality Commission shall develop an action plan for
 34 preventing exceedance of the statewide greenhouse gas emissions limits set forth in section
 35 6 of this 2015 Act. The commission shall consult with all responsible state agencies in de-
 36 veloping the action plan.

37 (2) The action plan shall:

38 (a) Identify and make recommendations on emissions reduction measures, alternative
 39 compliance mechanisms, and market-based compliance mechanisms that sources may use to
 40 maximize feasible and cost-effective reductions of greenhouse gas emissions.

41 (b) Identify potential monetary and nonmonetary incentives for sources to reduce
 42 greenhouse gas emissions.

43 (c) Require cooperation, to the greatest extent feasible and cost-effective, among local
 44 governments, state agencies, other states and the federal government in identifying and
 45 carrying out strategic and integrated measures to reduce greenhouse gas emissions.

1 (d) Identify opportunities for greenhouse gas emissions reductions from all verifiable and
2 enforceable voluntary actions, including but not limited to carbon sequestration and best
3 management practices.

4 (e) Identify all state laws and programs related to greenhouse gas emissions regulation
5 that will require adjustments in order to function in a coordinated manner to meet the goals
6 of the action plan.

7 (f) Ensure that greenhouse gas emissions reduction regulations and programs are ad-
8 ministered in a manner that, to the extent feasible and necessary, directs public and private
9 investment toward benefitting disadvantaged communities and providing opportunities for
10 beneficial participation by small businesses, schools, affordable housing associations and
11 other community-based institutions.

12 (3) In developing the action plan, the commission shall:

13 (a) Consider the total potential costs and total potential economic and noneconomic
14 benefits and risks of the action plan with relation to this state's economy, the environment
15 and public health;

16 (b) Consider the relative contribution of each source to statewide greenhouse gas emis-
17 sions and the potential for the adverse effects that any regulations adopted pursuant to the
18 action plan may have on small businesses;

19 (c) Use the best available economic models, emissions estimation techniques and other
20 scientific methods; and

21 (d) Identify de minimis thresholds for greenhouse gas emissions by certain sources below
22 which greenhouse gas emission reduction requirements adopted pursuant to the action plan
23 would not apply.

24 (4) The commission shall appoint an environmental justice advisory committee to assist
25 in developing the action plan. The advisory committee shall have at least three members and
26 shall include representatives from communities in this state that are at the highest risk of
27 being negatively affected by air pollution, including but not limited to representatives from
28 communities with minority populations or low-income populations. The commission shall
29 receive nominations for membership on the committee from environmental justice organ-
30 izations.

31 (5)(a) The commission shall appoint an economic and technology advancement advisory
32 committee to assist the commission, for purposes of developing the action plan, in:

33 (A) Identifying new technologies, research, demonstration projects and funding opportu-
34 nities for reducing greenhouse gas emissions;

35 (B) Developing state, national and international partnerships and technology transfer
36 opportunities; and

37 (C) Identifying and assessing research and advanced technology investment and incentive
38 opportunities that will assist in achieving greenhouse gas emissions reductions.

39 (b) The advisory committee appointed under this subsection may also advise the com-
40 mission on state, regional, national and international economic and technological develop-
41 ments related to greenhouse gas emissions reductions.

42 (6) The commission shall review and update the action plan adopted under this section
43 at least once every five years.

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GREENHOUSE GAS EMISSIONS REDUCTION PROGRAM

1 **SECTION 8.** (1) The Environmental Quality Commission shall adopt by rule a program
2 to carry out the actions identified in the action plan adopted under section 7 of this 2015 Act.
3 The Department of Environmental Quality shall administer the program.

4 (2) A program adopted under this section may include, but need not be limited to, a
5 system of market-based declining annual aggregate emissions limits for sources. A market-
6 based system adopted under this subsection shall:

7 (a) Ensure the attainment of maximum technologically feasible and cost-effective
8 greenhouse gas emissions reductions, in the aggregate, from all sources subject to the pro-
9 gram.

10 (b) Prevent the increase in the emissions of toxic air contaminants or criteria air
11 pollutants due to compliance with the program.

12 (c) Include provisions necessary to obtain and maintain reciprocity with the market-
13 based systems of other states or countries.

14 (d) Be designed to address the potential for direct, indirect and cumulative emissions
15 impacts of the program on communities adversely impacted by air pollution.

16 (3) In developing the program under this section, the commission shall:

17 (a) Design the program in a manner that is equitable, seeks to minimize costs to sources
18 and encourages early actions to reduce greenhouse gas emissions;

19 (b) Endeavor to ensure that actions taken under the program do not disproportionately
20 adversely impact low-income communities;

21 (c) Ensure that sources that have voluntarily reduced greenhouse gas emissions prior to
22 implementation of the program receive credits for early voluntary reductions;

23 (d) Consider the cost-effectiveness of the program;

24 (e) Endeavor to maximize the overall societal benefits of the program, including but not
25 limited to reductions in other air pollutants, diversification of energy sources and other
26 benefits to the economy, environment and public health;

27 (f) Minimize the administrative burdens in complying with the program;

28 (g) Minimize reductions in greenhouse gas emissions within this state being offset by
29 greenhouse gas emissions increases outside this state; and

30 (h) Consider the significance of the contributions of each source to statewide emissions
31 of greenhouse gases.

32 (4) The commission shall consult with all other responsible state agencies in adopting a
33 program under this section.

34 (5) The commission shall ensure that any greenhouse gas emissions reductions achieved
35 pursuant to the program adopted under this section are real, permanent, quantifiable, veri-
36 fiable and enforceable.

37 (6)(a) This section and the rules adopted under this section shall not be interpreted to
38 limit the authority of any state agency to adopt and implement greenhouse gas emissions
39 reductions measures.

40 (b) The requirements of this section and any rules adopted under this section are in ad-
41 dition to any requirements that may be imposed under federal law and shall be interpreted
42 in a manner consistent with federal law.

43
44 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**
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SECTION 9. (1) In addition to any registration and reporting that may be required under ORS 468A.050, the Environmental Quality Commission by rule may require registration and reporting regarding greenhouse gas emissions by any source.

(2) Rules adopted under this section must:

(a) Include requirements for recordkeeping of greenhouse gas emissions to be maintained through separate ledger accounts for carbon dioxide and carbon dioxide equivalents;

(b) Require compliance monitoring by the Department of Environmental Quality;

(c) Ensure rigorous and consistent accounting of emissions and provide reporting tools and formats to ensure collection of necessary data; and

(d) Ensure that sources maintain comprehensive records of all reported greenhouse gas emissions.

(3) By rule the commission may establish a schedule of fees for persons required to register pursuant to this section or ORS 468A.050. The commission shall base the fees upon the anticipated cost of developing and implementing the programs for which the persons register, including but not limited to the costs of processing registrations, conducting compliance inspections and enforcement. A registration must be accompanied by any fee specified by the commission by rule. Subsequent annual registration fees are payable as prescribed by rule of the commission.

(4) The commission shall periodically review and update the reporting and registration requirements adopted under this section to ensure that the requirements are, to the extent feasible and appropriate, consistent with the greenhouse gas emissions reporting and registration requirements of other states, the federal government or other countries.

(5) The commission shall require the department to make emissions reporting information received pursuant to the rules adopted under this section available online to the public.

TIMELINES

SECTION 10. (1) The Environmental Quality Commission and the Department of Environmental Quality shall meet the following deadlines in complying with sections 5, 6, 7 and 8 of this 2015 Act:

(a) By July 1, 2016, the department shall make its determination and report on 1990 statewide greenhouse gas emissions levels as required by section 5 of this 2015 Act.

(b) By January 1, 2017, the commission shall:

(A) Adopt by rule the statewide greenhouse gas emissions limits as provided in section 6 of this 2015 Act; and

(B) Adopt by rule the action plan required by section 7 of this 2015 Act.

(c) By January 1, 2018, the commission shall adopt by rule the program required under section 8 of this 2015 Act.

(2) In addition to meeting the deadlines imposed by subsection (1) of this section, the commission may adopt by rule a list of early actions for greenhouse gas emissions reductions that sources may take to receive credits for early voluntary reductions under the program adopted by rule under section 8 of this 2015 Act.

REPEAL OF ORS 468A.205 AND CONFORMING AMENDMENTS

1 **SECTION 11. ORS 468A.205 is repealed.**

2 **SECTION 12.** ORS 184.889 is amended to read:

3 184.889. (1) The Oregon Transportation Commission, after consultation with and in cooperation
4 with metropolitan planning organizations, other state agencies, local governments and stakeholders,
5 as a part of the state transportation policy developed and maintained under ORS 184.618, shall adopt
6 a statewide transportation strategy on greenhouse gas emissions to aid in achieving [*the*] greenhouse
7 gas emissions [*reduction goals*] **consistent with the limits** set forth in [*ORS 468A.205*] **section 6**
8 **of this 2015 Act.** The commission shall focus on reducing greenhouse gas emissions resulting from
9 transportation. In developing the strategy, the commission shall take into account state and federal
10 programs, policies and incentives related to reducing greenhouse gas emissions.

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

13 **SECTION 13.** ORS 468A.235 is amended to read:

14 468A.235. The Oregon Global Warming Commission shall recommend ways to coordinate state
15 and local efforts to reduce greenhouse gas emissions in Oregon consistent with the **limits on**
16 greenhouse gas emissions [*reduction goals*] established by [*ORS 468A.205*] **section 6 of this 2015**
17 **Act** and shall recommend efforts to help Oregon prepare for the effects of global warming. The Of-
18 fice of the Governor and state agencies working on multistate and regional efforts to reduce
19 greenhouse gas emissions shall inform the commission about these efforts and shall consider input
20 from the commission for such efforts.

21 **SECTION 14.** ORS 468A.240 is amended to read:

22 468A.240. (1) In furtherance of the **limits on** greenhouse gas emissions [*reduction goals*] estab-
23 lished by [*ORS 468A.205*] **section 6 of this 2015 Act**, the Oregon Global Warming Commission may
24 recommend statutory and administrative changes, policy measures and other recommendations to
25 be carried out by state and local governments, businesses, nonprofit organizations or residents. In
26 developing its recommendations, the commission shall consider economic, environmental, health and
27 social costs, and the risks and benefits of alternative strategies, including least-cost options. The
28 commission shall solicit and consider public comment relating to statutory, administrative or policy
29 recommendations.

30 (2) The commission shall examine greenhouse gas cap-and-trade systems, including a statewide
31 and multistate carbon cap-and-trade system and market-based mechanisms, as a means of achieving
32 the **limits on** greenhouse gas emissions [*reduction goals*] established by [*ORS 468A.205*] **section 6**
33 **of this 2015 Act.**

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

37 **SECTION 15.** ORS 468A.250 is amended to read:

38 468A.250. (1) The Oregon Global Warming Commission shall track and evaluate:

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

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

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

44 (d) The physical science of global warming;

45 (e) Progress toward **preventing exceedance of** the greenhouse gas emissions [*reduction goals*]

1 **limits** established by [ORS 468A.205] **section 6 of this 2015 Act**;

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

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

6 (h) Efforts to identify the greenhouse gas emissions attributable to the residential and commer-
7 cial building sectors;

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

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

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

15 (L) Any other information, policies or analyses that the commission determines will aid in the
16 achievement of the greenhouse gas emissions [*reduction goals*] **limits** established by [ORS
17 468A.205] **section 6 of this 2015 Act**.

18 (2) The commission shall:

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

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

25 **SECTION 16.** ORS 468A.260 is amended to read:

26 468A.260. The Oregon Global Warming Commission shall submit a report to the Legislative As-
27 sembly, in the manner provided by ORS 192.245, by March 31 of each odd-numbered year that de-
28 scribes Oregon's progress toward [*achievement*] **preventing exceedance** of the greenhouse gas
29 emissions [*reduction goals*] **limits** established by [ORS 468A.205] **section 6 of this 2015 Act**. The
30 report may include relevant issues and trends of significance, including trends of greenhouse gas
31 emissions, emerging public policy and technological advances. The report also may discuss measures
32 the state may adopt to mitigate the impacts of global warming on the environment, the economy and
33 the residents of Oregon and to prepare for those impacts.

34 **SECTION 17.** Section 9, chapter 751, Oregon Laws 2009, is amended to read:

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

38 (a) Ten percent below 1990 levels, as specified in [ORS 468A.205] **section 6 of this 2015 Act**;
39 and

40 (b) Fifteen percent below 2005 levels.

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

44 **SECTION 18.** The repeal of ORS 468A.205 by section 11 of this 2015 Act and the amend-
45 ments to ORS 184.889, 468A.235, 468A.240, 468A.250 and 468A.260 and section 9, chapter 751,

1 **Oregon Laws 2009, by sections 12 to 17 of this 2015 Act become operative on January 1, 2017.**

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UNIT CAPTIONS

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5 **SECTION 19. The unit captions used in this 2015 Act are provided only for the conven-**
6 **ience of the reader and do not become part of the statutory law of this state or express any**
7 **legislative intent in the enactment of this 2015 Act.**

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