

A-Engrossed
House Bill 3470

Ordered by the House April 27
Including House Amendments dated April 27

Sponsored by Representatives BARNHART, HOLVEY, BUCKLEY

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.

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 are added to and made a part of ORS chapter**
9 **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-**

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 creation and tourism. Global warming will also strain the electricity and domestic water
2 supplies that are necessary for economic stability and the most basic levels of human well-
3 being and survival.

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

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

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

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

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

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

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

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

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

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

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

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

1 tion and Development.

2 (9) "Source" means any source, or category of sources, of greenhouse gas emissions that
3 emits greenhouse gases at a level of significance such that the Environmental Quality Com-
4 mission determines that participation by the source in the program established by rule under
5 section 8 of this 2015 Act will contribute to statewide greenhouse gas emissions reductions.

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

11
12 **GREENHOUSE GAS EMISSIONS LIMITS AND ACTION PLAN**

13
14 **SECTION 5.** (1) The Department of Environmental Quality shall determine what the
15 statewide greenhouse gas emissions level was in 1990 and shall:

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

18 (b) Post its findings on the department's website.

19 (2) The commission shall treat the 1990 statewide greenhouse gas emissions level as de-
20 termined by the department under subsection (1) of this section as the baseline statewide
21 greenhouse gas emissions level for adopting rules as required under sections 7 and 8 of this
22 2015 Act.

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

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

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

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

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

36 **SECTION 7.** (1) The Environmental Quality Commission shall develop an action plan for
37 preventing exceedance of the statewide greenhouse gas emissions limits set forth in section
38 6 of this 2015 Act. The commission shall consult with all responsible state agencies in de-
39 veloping the action plan.

40 (2) The action plan shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (B) Developing state, national and international partnerships and technology transfer
39 opportunities; and

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

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

45 (6) The commission shall review and update the action plan adopted under this section

1 at least once every five years.

2
3 **GREENHOUSE GAS EMISSIONS REDUCTION PROGRAM**
4

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (g) Minimize reductions in greenhouse gas emissions within this state being offset by
33 greenhouse gas emissions increases outside this state;

34 (h) Consider the significance of the contributions of each source to statewide emissions
35 of greenhouse gases; and

36 (i) Collaborate with the department to adjust regulatory mechanisms to compensate for
37 any failure to meet initial greenhouse gas emissions limits or interim limits in subsequent
38 five-year periods.

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

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

44 (6)(a) This section and the rules adopted under this section shall not be interpreted to
45 limit the authority of any state agency to adopt and implement greenhouse gas emissions

1 reductions measures.

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

5
6 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

7
8 **SECTION 9.** (1) In addition to any registration and reporting that may be required under
9 ORS 468A.050, the Environmental Quality Commission by rule may require registration and
10 reporting regarding greenhouse gas emissions by any source.

11 (2) Rules adopted under this section must:

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

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

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

17 (d) Ensure that sources maintain comprehensive records of all reported greenhouse gas
18 emissions; and

19 (e) Require source emissions accounting to apply full accounting practices throughout
20 their life cycles, including production, storage, transportation, delivery, final use combustion
21 and fugitive losses, expressed in carbon dioxide equivalent measurements.

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

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

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

35
36 **TIMELINES**

37
38 **SECTION 10.** (1) The Environmental Quality Commission and the Department of Envi-
39 ronmental Quality shall meet the following deadlines in complying with sections 5, 6, 7 and
40 8 of this 2015 Act:

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

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

44 (A) Adopt by rule the statewide greenhouse gas emissions limits as provided in section
45 6 of this 2015 Act; and

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

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

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

8
9 REPEAL OF ORS 468A.205 AND CONFORMING AMENDMENTS

10
11 **SECTION 11. ORS 468A.205 is repealed.**

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

13 184.889. (1) The Oregon Transportation Commission, after consultation with and in cooperation
14 with metropolitan planning organizations, other state agencies, local governments and stakeholders,
15 as a part of the state transportation policy developed and maintained under ORS 184.618, shall adopt
16 a statewide transportation strategy on greenhouse gas emissions to aid in achieving *[the]* greenhouse
17 gas emissions *[reduction goals]* **consistent with the limits** set forth in *[ORS 468A.205]* **section 6**
18 **of this 2015 Act.** The commission shall focus on reducing greenhouse gas emissions resulting from
19 transportation. In developing the strategy, the commission shall take into account state and federal
20 programs, policies and incentives related to reducing greenhouse gas emissions.

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

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

24 468A.235. The Oregon Global Warming Commission shall recommend ways to coordinate state
25 and local efforts to reduce greenhouse gas emissions in Oregon consistent with the **limits on**
26 greenhouse gas emissions *[reduction goals]* established by *[ORS 468A.205]* **section 6 of this 2015**
27 **Act** and shall recommend efforts to help Oregon prepare for the effects of global warming. The Of-
28 fice of the Governor and state agencies working on multistate and regional efforts to reduce
29 greenhouse gas emissions shall inform the commission about these efforts and shall consider input
30 from the commission for such efforts.

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

32 468A.240. (1) In furtherance of the **limits on** greenhouse gas emissions *[reduction goals]* estab-
33 lished by *[ORS 468A.205]* **section 6 of this 2015 Act**, the Oregon Global Warming Commission may
34 recommend statutory and administrative changes, policy measures and other recommendations to
35 be carried out by state and local governments, businesses, nonprofit organizations or residents. In
36 developing its recommendations, the commission shall consider economic, environmental, health and
37 social costs, and the risks and benefits of alternative strategies, including least-cost options. The
38 commission shall solicit and consider public comment relating to statutory, administrative or policy
39 recommendations.

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

44 (3) The commission shall examine possible funding mechanisms to obtain low-cost greenhouse
45 gas emissions reductions and energy efficiency enhancements, including but not limited to those in

1 the natural gas industry.

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

3 468A.250. (1) The Oregon Global Warming Commission shall track and evaluate:

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

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

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

9 (d) The physical science of global warming;

10 (e) Progress toward **preventing exceedance** of the greenhouse gas emissions [*reduction goals*]
11 **limits** established by [*ORS 468A.205*] **section 6 of this 2015 Act**;

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

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

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

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

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

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

25 (L) Any other information, policies or analyses that the commission determines will aid in the
26 achievement of the greenhouse gas emissions [*reduction goals*] **limits** established by [*ORS*
27 *468A.205*] **section 6 of this 2015 Act**.

28 (2) The commission shall:

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

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

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

36 468A.260. The Oregon Global Warming Commission shall submit a report to the Legislative As-
37 sembly, in the manner provided by ORS 192.245, by March 31 of each odd-numbered year that de-
38 scribes Oregon's progress toward [*achievement*] **preventing exceedance** of the greenhouse gas
39 emissions [*reduction goals*] **limits** established by [*ORS 468A.205*] **section 6 of this 2015 Act**. The
40 report may include relevant issues and trends of significance, including trends of greenhouse gas
41 emissions, emerging public policy and technological advances. The report also may discuss measures
42 the state may adopt to mitigate the impacts of global warming on the environment, the economy and
43 the residents of Oregon and to prepare for those impacts.

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

45 **Sec. 9.** (1) The Public Utility Commission shall develop estimates of the rate impacts for electric

1 companies and natural gas companies to meet the following alternative greenhouse gas emission
2 reduction goals for 2020:

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

5 (b) Fifteen percent below 2005 levels.

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

9 **SECTION 18. The repeal of ORS 468A.205 by section 11 of this 2015 Act and the amend-**
10 **ments to ORS 184.889, 468A.235, 468A.240, 468A.250 and 468A.260 and section 9, chapter 751,**
11 **Oregon Laws 2009, by sections 12 to 17 of this 2015 Act become operative on January 1, 2017.**

12
13 **UNIT CAPTIONS**

14
15 **SECTION 19. The unit captions used in this 2015 Act are provided only for the conven-**
16 **ience of the reader and do not become part of the statutory law of this state or express any**
17 **legislative intent in the enactment of this 2015 Act.**