

# Senate Bill 98

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## 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**.

Allows State Forester to acquire property for establishment of working forests. Directs State Forester to manage property acquired for working forests for long-term revenue to provide student assistance to persons attending institutions in Oregon University System.

Allows State Treasurer to issue working forests revenue bonds.

Establishes Working Forests Higher Education Fund. Continuously appropriates moneys to State Treasurer for student assistance program.

Establishes Working Forests Revenue Fund. Continuously appropriates moneys to State Forester.

Establishes Working Forests Revenue Bond Fund. Continuously appropriates moneys to State Treasurer.

Establishes Working Forests Revenue Bond Administrative Fund. Continuously appropriates moneys to Oregon Department of Administrative Services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to working forests; appropriating money; and declaring an emergency.

3       Whereas working forests, which are forests that retain the capacity for long-term timber man-  
4 agement in concert with other forest values, are extremely important to the people of rural Oregon,  
5 providing an economic base, a source of recreation, fish and wildlife habitat and watershed pro-  
6 tection that help sustain people in rural communities and contribute to the quality of life; and

7       Whereas changing economic and ownership patterns are causing concerns that land currently  
8 owned by the forest industry may be sold to individuals or organizations that have less interest in  
9 managing the land for sustained timber production, resulting in conversion of forestland to nonforest  
10 uses or reductions in the productive capacity of the forests due to such factors as parcelization,  
11 unsustainable reductions in growing stock to service debt or purchase by landowners with less in-  
12 terest in maintaining a working forest; and

13       Whereas forestry-related jobs are an important part of community stability and quality of life  
14 in rural Oregon, and timber supply from federal lands has significantly declined due to changes in  
15 management policies; and

16       Whereas Oregon lacks a stable funding source for higher education; and

17       Whereas the Oregon University System is in danger of losing the best and brightest students to  
18 other states because of increasing tuition rates for students at Oregon's public universities; and

19       Whereas the state's experience with the Elliott, Tillamook, Sun Pass and other state forests  
20 shows that state-owned forestlands are a good investment that both maintains working forests and  
21 produces funding for schools; and

22       Whereas in areas with high timber production capacity and land values consistent with that  
23 productive capacity, state ownership can produce both a strong financial return and other important  
24 social and environmental benefits; and

**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       Whereas as public lands, working forests are capable of providing an increased level of wildlife  
2       habitat and accessible recreation opportunities, as well as sustained timber volumes; now, therefore,  
3       **Be It Enacted by the People of the State of Oregon:**

4       **SECTION 1. Sections 2 to 11 of this 2007 Act are added to and made a part of ORS**  
5       **chapter 530.**

6       **SECTION 2. Definitions. As used in sections 2 to 11 of this 2007 Act, unless the context**  
7       **requires otherwise:**

8       (1) **“Appropriated funds” means any moneys, other than working forests net revenues,**  
9       **that are specifically appropriated or otherwise specifically made available by the Legislative**  
10       **Assembly or the Emergency Board for a biennium to pay principal, interest and premium,**  
11       **if any, and to replenish reserves established as additional security, for working forests re-**  
12       **venue bonds pursuant to the authority granted in section 10 of this 2007 Act.**

13       (2) **“Bond-related costs” means:**

14       (a) **The costs and expenses of issuing, administering and maintaining working forests**  
15       **revenue bonds and the working forests revenue bond program, including but not limited to**  
16       **paying or redeeming working forests revenue bonds, paying amounts due in connection with**  
17       **credit enhancement devices or any instruments authorized by section 10 of this 2007 Act and**  
18       **paying the administrative costs and expenses of the State Treasurer and the Oregon De-**  
19       **partment of Administrative Services, including costs of consultants or advisors retained by**  
20       **the State Treasurer or the Oregon Department of Administrative Services for the working**  
21       **forests revenue bonds or the working forests revenue bond program;**

22       (b) **The costs of funding any working forests revenue bond reserves;**

23       (c) **Capitalized interest for working forests revenue bonds;**

24       (d) **Rebates or penalties due to the United States in connection with working forests re-**  
25       **venue bonds; and**

26       (e) **Any other costs or expenses that the State Treasurer or the Director of the Oregon**  
27       **Department of Administrative Services determines are necessary or desirable in connection**  
28       **with issuing working forests revenue bonds or maintaining the working forests revenue bond**  
29       **program.**

30       (3) **“Refunding working forests revenue bonds” means any bonds issued for the purpose**  
31       **of refunding any working forests revenue bonds.**

32       (4) **“Working forests” means real property, or interests therein, managed primarily for**  
33       **timber production to produce revenue over the long term for the benefit of higher education**  
34       **in this state.**

35       (5) **“Working forests net revenues” means any working forests revenues remaining in the**  
36       **Working Forests Revenue Fund after payment of the amounts described in section 6 (2) and**  
37       **(3) of this 2007 Act.**

38       (6) **“Working forests revenue bond program” means the financing program authorized**  
39       **by sections 2 to 11 of this 2007 Act.**

40       (7) **“Working forests revenue bonds” means the revenue bonds authorized under section**  
41       **10 of this 2007 Act.**

42       (8) **“Working forests revenues” means all proceeds generated from the sale of timber and**  
43       **forest products and any other revenues generated from any working forests acquired pur-**  
44       **suant to sections 2 to 11 of this 2007 Act, including but not limited to the sale or lease of**  
45       **conservation easements, carbon credits, permits and licenses and revenues generated in any**

1 other manner not inconsistent with the purposes of sections 2 to 11 of this 2007 Act.

2 **SECTION 3. Acquisition of working forests.** The State Forester may acquire, by pur-  
3 chase, exchange, gift, lease or otherwise, real property or any interests therein to serve as  
4 working forests for the purposes set forth in sections 2 to 11 of this 2007 Act. For the pur-  
5 poses of this section, the State Forester may receive and disburse gifts, grants, bequests and  
6 endowments. Except as otherwise provided for the sale of forest products, the State Forester  
7 shall acquire and manage working forests under the authority and direction of the State  
8 Board of Forestry.

9 **SECTION 4. Management of working forests.** (1) The State Forester shall manage work-  
10 ing forests acquired under section 3 of this 2007 Act to generate long-term working forests  
11 net revenues for the Working Forests Higher Education Fund. Working forests revenues  
12 shall be generated by the sale of forest products, and may be supplemented in any other  
13 manner not inconsistent with the goal of a long-term revenue stream, including the sale or  
14 lease of conservation easements, carbon credits, permits and licenses. The State Forester  
15 may also manage working forests to provide public services, including recreation, fish and  
16 wildlife habitat and watershed protection consistent with the purposes of sections 2 to 11 of  
17 this 2007 Act.

18 (2) The State Forester may hold and manage working forests alone or in cooperation with  
19 other entities.

20 (3) The State Forester may hold and manage working forests for a reasonable period of  
21 time without generating revenue if necessary to achieve longer term management objectives.  
22 However, the State Forester shall sell property that cannot be managed to achieve the pur-  
23 poses of sections 2 to 11 of this 2007 Act at fair market value. The proceeds of such sales  
24 shall be deposited as working forests revenues into the Working Forests Revenue Fund.

25 **SECTION 5. Working Forests Higher Education Fund.** (1) The Working Forests Higher  
26 Education Fund is established in the State Treasury, separate and distinct from the General  
27 Fund. The State Forester shall deposit working forests net revenues into the Working For-  
28 ests Higher Education Fund pursuant to section 6 (2)(b) of this 2007 Act at times and in  
29 amounts deemed appropriate by the State Forester to fulfill the purposes of sections 2 to 11  
30 of this 2007 Act. The fund also may be credited with other amounts, including but not limited  
31 to moneys appropriated to the fund for that purpose, contract proceeds, gifts, grants or do-  
32 nations from public and private sources and returns on investments made from the fund.  
33 The provisions of ORS 293.140 and 293.751 do not apply to the fund. Moneys in the fund may  
34 be invested as provided in ORS 293.701 to 293.820.

35 (2) The fund is continuously appropriated to the State Treasurer for purposes specified  
36 in subsection (3) of this section.

37 (3) The State Treasurer shall use the moneys in the fund to provide student assistance  
38 to residents of this state who attend institutions within the Oregon University System. The  
39 State Treasurer may pay the expenses necessary to administer the student assistance pro-  
40 gram from moneys in the fund. The State Treasurer may adopt rules for the administration  
41 of this subsection.

42 **SECTION 6. Working Forests Revenue Fund.** (1) The Working Forests Revenue Fund is  
43 established in the State Treasury, separate and distinct from the General Fund. The pro-  
44 visions of ORS 293.140 and 293.751 do not apply to the Working Forests Revenue Fund. All  
45 working forests revenues and the net proceeds from the sale of working forests revenue

1 bonds, after the deduction of bond-related costs, shall be deposited in the Working Forests  
 2 Revenue Fund. The State Forester may establish accounts as may be necessary to conven-  
 3 iently administer the fund. Moneys in the fund are continuously appropriated to the State  
 4 Forester.

5 (2)(a) The State Forester may distribute from moneys in the fund, in the following pri-  
 6 ority, amounts needed at any time each fiscal year:

7 (A) For the actual cost of management and fire protection of the working forests for the  
 8 fiscal year.

9 (B) For payments in lieu of property taxes to the counties in which the working forests  
 10 are located for the fiscal year.

11 (C) For transfer to the Working Forests Revenue Bond Fund as provided in section 7 of  
 12 this 2007 Act.

13 (D) For transfer to the Working Forests Higher Education Fund and to the counties in  
 14 which the working forests are located.

15 (b) If moneys are available for the purposes specified in paragraph (a)(D) of this sub-  
 16 section, 90 percent of those available moneys shall be transferred to the Working Forests  
 17 Higher Education Fund and 10 percent shall be transferred to the counties in which the  
 18 working forests are located. Each county shall receive a share of the 10 percent that is  
 19 proportionate to the amount of working forests revenues generated in the fiscal year by any  
 20 working forests located in the county.

21 (3) The State Forester may use net proceeds of the sale of working forests revenue bonds  
 22 in the Working Forests Revenue Fund only to finance the acquisition of working forests as  
 23 provided in section 3 of this 2007 Act. If net proceeds of the sale of working forests revenue  
 24 bonds remain unexpended after such financing, the unexpended net proceeds shall be trans-  
 25 ferred to the Working Forests Revenue Bond Fund.

26 **SECTION 7. Working Forests Revenue Bond Fund.** (1) The Working Forests Revenue  
 27 Bond Fund is established in the State Treasury, separate and distinct from the General Fund.  
 28 The State Forester shall transfer any working forests net revenues available under section  
 29 6 of this 2007 Act to the Working Forests Revenue Bond Fund after receipt of the certif-  
 30 ication described in section 9 of this 2007 Act. The State Treasurer may establish reserves  
 31 for working forests revenue bonds as provided in section 10 of this 2007 Act. The reserves  
 32 shall be credited to an account in the Working Forests Revenue Bond Fund designated by  
 33 the State Treasurer. The provisions of ORS 293.140 and 293.751 do not apply to the fund.  
 34 Moneys in the fund may be invested as provided in ORS 293.701 to 293.820.

35 (2) The Working Forests Revenue Bond Fund is continuously appropriated to the State  
 36 Treasurer for the purposes of:

37 (a) Paying, when due, the principal of and the interest and premium, if any, on out-  
 38 standing working forests revenue bonds;

39 (b) Funding working forests revenue bond reserves; and

40 (c) Paying amounts due under credit enhancement devices or any instruments authorized  
 41 by section 10 of this 2007 Act.

42 **SECTION 8. Working Forests Revenue Bond Administrative Fund.** The Working Forests  
 43 Revenue Bond Administrative Fund is established in the State Treasury, separate and dis-  
 44 tinct from the General Fund. The Working Forests Revenue Bond Administrative Fund is  
 45 continuously appropriated to the Oregon Department of Administrative Services only for

1 payment of bond-related costs. Amounts in the Working Forests Revenue Bond Adminis-  
 2 trative Fund shall be disbursed upon the written request of the Director of the Oregon De-  
 3 partment of Administrative Services. The provisions of ORS 293.140 and 293.751 do not apply  
 4 to the fund. Moneys in the fund may be invested as provided in ORS 293.701 to 293.820.

5 **SECTION 9. Allocation of working forests net revenues for working forests revenue**  
 6 **bonds.** (1) In each fiscal year in which working forests revenue bonds are outstanding, the  
 7 Oregon Department of Administrative Services shall certify to the State Forester the  
 8 amounts needed for the fiscal year to:

9 (a) Pay the bond principal, interest or premium, if any, scheduled to be paid for working  
 10 forests revenue bonds in that year;

11 (b) Fulfill any reserve requirements in connection with any outstanding working forests  
 12 revenue bonds;

13 (c) Restore the balance in any reserve account for working forests revenue bonds to the  
 14 level the state has covenanted to maintain in the account under agreement with bond holders  
 15 or otherwise, including any amounts due under a credit enhancement device or any instru-  
 16 ment authorized by section 10 of this 2007 Act; and

17 (d) Pay bond-related costs incurred during that fiscal year.

18 (2) The State Forester shall transfer an amount of working forests net revenues neces-  
 19 sary to pay the certified amounts described in subsection (1) of this section to the Working  
 20 Forests Revenue Bond Fund and the Working Forests Revenue Bond Administrative Fund  
 21 in the following priority:

22 (a) First, there shall be transferred to the Working Forests Revenue Bond Fund an  
 23 amount of working forests net revenues that, when added to any amounts credited to the  
 24 Working Forests Revenue Bond Fund that are available for such purpose, will be sufficient  
 25 to pay all amounts of working forests revenue bond principal, interest and premium, if any,  
 26 scheduled to be paid in that fiscal year;

27 (b) Second, if the balances in any reserve accounts for working forests revenue bonds  
 28 are less than the amounts the state has covenanted to maintain in those reserve accounts,  
 29 there shall be transferred to the Working Forests Revenue Bond Fund for credit to those  
 30 reserve accounts amounts of working forests net revenues sufficient to restore the balances  
 31 in those reserve accounts to the levels the state has covenanted to maintain; and

32 (c) Third, there shall be transferred to the Working Forests Revenue Bond Administra-  
 33 tive Fund an amount necessary to pay bond-related costs for that fiscal year.

34 **SECTION 10. Issuance of working forests revenue bonds.** (1) In accordance with any ap-  
 35 plicable provisions of ORS chapters 286 and 288, at the request of the State Forester, the  
 36 State Treasurer from time to time may issue working forests revenue bonds to:

37 (a) Finance the acquisition and management of real property and interests therein for  
 38 the purpose of maintaining working forests;

39 (b) Pay the costs of issuing working forests revenue bonds and administering the working  
 40 forests revenue bond program; and

41 (c) Pay the State Treasurer and the Oregon Department of Administrative Services for  
 42 all bond-related costs incurred by the treasurer and the department.

43 (2) The State Treasurer may, at the request of the State Forester, issue one or more  
 44 series of refunding working forests revenue bonds. The refunding working forests revenue  
 45 bonds shall be structured so that the amount required to pay those bonds in each fiscal year

1 does not exceed the anticipated amount of working forests net revenues that could have been  
2 committed to pay the working forests revenue bonds that are refunded. Refunding working  
3 forests revenue bonds shall be issued in amounts that the State Treasurer determines are  
4 necessary and appropriate in order to:

5 (a) Pay or defease the principal of and the interest and premium, if any, on the bonds to  
6 be refunded; and

7 (b) Pay any bond-related costs related to the refunding working forests revenue bonds.

8 (3) All working forests revenue bonds issued under this section shall be payable from:

9 (a) The amount pledged for payment under subsection (6) of this section; and

10 (b) Any appropriated funds.

11 (4) Working forests revenue bonds may not be general obligations of the State of Oregon  
12 and may not be secured by or payable from any funds or assets of this state other than the  
13 amounts pledged for payment or security and any appropriated funds. The Legislative As-  
14 sembly is not under any legal compulsion or obligation to provide any appropriated funds and  
15 is not liable to any party for any failure to provide appropriated funds. All working forests  
16 revenue bonds issued under this section shall contain a statement that the state is not ob-  
17 ligated to pay working forests revenue bond principal or interest or premium thereon from  
18 any source other than the amounts pledged for payment and any appropriated funds, and  
19 that the full faith and credit or the taxing power of the State of Oregon is not pledged to the  
20 payment of working forests revenue bond principal, interest or premium.

21 (5) The State Treasurer may establish reserves for working forests revenue bonds. The  
22 reserves may be in the form of cash, investments, surety bonds, municipal bond insurance,  
23 lines of credit, letters of credit or other similar instruments. The State Treasurer, on behalf  
24 of the State of Oregon, may covenant to maintain the reserves at particular levels, but solely  
25 from the amounts that may be pledged to pay working forests revenue bonds under sub-  
26 section (6) of this section. If there are insufficient working forests net revenues to pay the  
27 principal, interest and premium, if any, due on any outstanding working forests revenue  
28 bonds in the fiscal year or if reserves are drawn down below the level that this state has  
29 covenanted to maintain, the Director of the Oregon Department of Administrative Services  
30 shall promptly certify to the Legislative Assembly or, if the Legislative Assembly is not then  
31 in session, to the Emergency Board, the amount needed to pay the principal, interest and  
32 premium, if any, or to restore the reserves to their required level. The Legislative Assembly  
33 or the Emergency Board may provide appropriated funds in the amount certified by the Di-  
34 rector of the Oregon Department of Administrative Services. Any appropriated funds so  
35 provided shall be immediately transferred to the Working Forests Revenue Bond Fund for  
36 the payment of principal, interest and premium, if any, or to restore the balance in the es-  
37 tablished reserves. The State of Oregon may enter into covenants with the owners of the  
38 working forests revenue bonds that specify the timing and content of the director's certif-  
39 ication. By enacting this subsection, the Legislative Assembly acknowledges its current in-  
40 tent to provide appropriated funds in the amount certified by the director under this  
41 subsection. However, the Legislative Assembly or the Emergency Board does not have any  
42 legal obligation to provide any appropriated funds.

43 (6) Notwithstanding any other provision of law, the State Treasurer may pledge all or any  
44 portion of the working forests net revenues deposited in the Working Forests Revenue Bond  
45 Fund and any unexpended net proceeds of the sale of working forests revenue bonds to re-

1 fund working forests revenue bonds and to pay amounts due in connection with any credit  
2 enhancement devices or any instruments authorized by subsection (5) or (9) of this section.  
3 The lien of such pledge shall be valid and binding immediately upon delivery by the state of  
4 the working forests revenue bonds, credit enhancement agreement or instrument secured  
5 by the pledge. The amounts so pledged shall be immediately subject to the lien of the pledge  
6 upon transfer to the Working Forests Revenue Bond Fund or the Working Forests Revenue  
7 Bond Administrative Fund, regardless of whether there was physical delivery, filing or an-  
8 other act. Except to the extent provided in the pledge, the lien of the pledge shall be superior  
9 to all other claims, liens and appropriations of any kind. The State Treasurer may provide  
10 that working forests revenue bonds may be issued in different series and that each series  
11 may be secured by a lien on, and pledge of, the working forests net revenues that is superior  
12 to, subordinate to or on a parity with the lien of the pledge securing other series of working  
13 forests revenue bonds. Nothing in this section shall be construed to limit the powers granted  
14 in any other subsection of this section.

15 (7) Any covenants made under this section for the benefit of owners of working forests  
16 revenue bonds shall constitute contracts between the State of Oregon and the owners of  
17 working forests revenue bonds. The State Treasurer, or the Director of the Oregon Depart-  
18 ment of Administrative Services with the consent of the State Treasurer, may, on behalf of  
19 the State of Oregon and in addition to the covenants authorized by subsection (5) of this  
20 section, make the following covenants for the benefit of the owners of working forests re-  
21 venue bonds and any providers of credit enhancement devices or any instruments authorized  
22 by subsection (5) or (9) of this section:

23 (a) Except as permitted by a pledge made under subsection (6) of this section, the state  
24 shall not create any lien or encumbrance on the working forests net revenues that is supe-  
25 rior to the liens of the pledges authorized by subsection (6) of this section.

26 (b) Subject only to the availability of working forests net revenues, the State of Oregon  
27 shall budget and provide expenditure limitation or appropriation authority in each fiscal year  
28 for an amount of working forests net revenues that, when added to other funds lawfully  
29 budgeted and available for the purpose, will be sufficient:

30 (A) To pay in full the principal, interest and premium, if any, due and to become due on  
31 all outstanding working forests revenue bonds in the fiscal year;

32 (B) To maintain the required balance in any reserves established for working forests re-  
33 venue bonds; and

34 (C) To pay amounts due to the providers of credit enhancement devices for working for-  
35 ests revenue bonds under subsection (9) of this section or any instruments authorized by  
36 subsection (5) of this section.

37 (c) The state shall apply the working forests net revenues and any other amounts so  
38 budgeted and appropriated for the purposes described in paragraph (b) of this subsection.

39 (d) The state shall continue to operate the working forests until all working forests re-  
40 venue bonds are paid or defeased.

41 (8) In connection with the issuance of any working forests revenue bonds, the State  
42 Treasurer may establish such accounts and subaccounts within the Working Forests Re-  
43 venue Bond Fund that the State Treasurer determines are necessary or appropriate. In ad-  
44 dition, the State Treasurer or the Director of the Oregon Department of Administrative  
45 Services may, on behalf of the state, enter into any agreements that the State Treasurer or

1 the director determines are necessary or appropriate to issue working forests revenue bonds  
2 and carry out the provisions of sections 2 to 11 of this 2007 Act.

3 (9) If the State Treasurer determines that the acquisition is cost-effective, the State  
4 Treasurer may acquire a municipal bond insurance policy, letter of credit, line of credit,  
5 surety bond or other credit enhancement device for working forests revenue bonds, and may  
6 enter into any related agreements.

7 (10) The State Treasurer may provide that all or any portion of the Working Forests  
8 Revenue Bond Fund, the Working Forests Revenue Bond Administrative Fund or any ac-  
9 counts in either fund shall be held by a trustee, may enter into agreements with the trustee  
10 regarding the use and application of the amounts held in those funds and accounts and may  
11 transfer amounts credited to those funds and accounts to the trustee.

12 SECTION 11. Authority to adopt rules. The State Board of Forestry may adopt rules ap-  
13 propriate for the implementation of sections 3, 4, 5, 6 and 9 of this 2007 Act.

14 SECTION 12. 2007-2009 biennium bonds. Notwithstanding ORS 286.505 to 286.545, the  
15 Legislative Assembly authorizes the issuance of \$\_\_\_\_\_ million of working forests revenue  
16 bonds in the 2007-2009 biennium.

17 SECTION 13. Captions. The section captions used in this 2007 Act are provided only for  
18 the convenience of the reader and do not become part of the statutory law of this state or  
19 express any legislative intent in the enactment of this 2007 Act.

20 SECTION 14. Emergency clause. This 2007 Act being necessary for the immediate pres-  
21 ervation of the public peace, health and safety, an emergency is declared to exist, and this  
22 2007 Act takes effect on its passage.  
23 \_\_\_\_\_