

# House Bill 3432

Sponsored by Representative BREWER; Representatives GILLIAM, JOHNSON, KRIEGER, MCLANE, OLSON, SHEEHAN

## 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**.

Designates Oregon Board of Accountancy Account, Department of Agriculture Service Fund, state agency real property or facilities accounts, Forest Research and Experiment Account, Oregon Forest Land Protection Fund, Oregon Forest Smoke Management Account, certain moneys in State Forestry Department Account, Forest Resource Trust Fund and Oregon Forest Resources Institute Fund as trust accounts or funds exclusively for purposes described by law.

Declares legislative intent to create contractual obligation of state to use moneys only for purposes specified by law and to not transfer moneys out of account for other uses.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to state finance; creating new provisions; amending ORS 276.285, 321.185, 477.560, 477.750,  
3 526.060, 526.675, 526.720 and 561.144; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 673.010 to**  
6 **673.457.**

7 **SECTION 2. (1) The Oregon Board of Accountancy Account established in the General**  
8 **Fund pursuant to ORS 670.335 is a trust account exclusively for the uses and purposes de-**  
9 **clared in ORS 670.335 and 673.010 to 673.457.**

10 **(2) The State of Oregon declares that it has no proprietary interest in the Oregon Board**  
11 **of Accountancy Account and disclaims any right to claim contributions made to the account**  
12 **from sources other than the General Fund.**

13 **(3) The Legislative Assembly unambiguously expresses an intention to create a contrac-**  
14 **tual obligation of the state, to persons who pay fees for deposit into the account or contrib-**  
15 **ute moneys to the account, to use the moneys in the account only for the purposes declared**  
16 **in ORS 670.335 and 673.010 to 673.457 and commits to not transfer the moneys in the account**  
17 **to any other fund or account to be used for other purposes.**

18 **(4) This section does not impair the force or effect of any law of this state specifically**  
19 **authorizing the investment of moneys from the account.**

20 **SECTION 3. ORS 561.144 is amended to read:**

21 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which  
22 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-  
23 culture shall deposit all license and service fees paid to it under the provisions of the statutes  
24 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State  
25 Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such de-  
26 positories as are authorized to receive deposits of the General Fund, and which may be invested by  
27 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

**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 (2) Interest received on deposits credited to the Department of Agriculture Service Fund shall  
 2 accrue to and become a part of the Department of Agriculture Service Fund.

3 (3) The license and service fees subject to this section are those described in ORS 561.400,  
 4 561.740, 570.710, 571.057, 571.063, 571.145, 571.305, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050,  
 5 586.270, 586.580, 586.650, 596.030, 596.100, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090,  
 6 603.025, 603.075, 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730,  
 7 622.080, 625.180, 628.240, 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015,  
 8 633.029, 633.318, 633.362, 633.461, 633.471, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126,  
 9 634.132, 634.136, 634.212 and 635.030.

10 (4) **The Department of Agriculture Service Fund is a trust fund exclusively for the uses  
 11 and purposes provided by law. The State of Oregon declares that it has no proprietary in-  
 12 terest in the Department of Agriculture Service Fund and disclaims any right to claim con-  
 13 tributions made to the fund from sources other than the General Fund. The Legislative  
 14 Assembly unambiguously expresses an intention to create a contractual obligation of the  
 15 state, to persons who pay fees for deposit into the Department of Agriculture Service Fund  
 16 or contribute moneys to the fund, to use the moneys in the fund only for the purposes pro-  
 17 vided by law and commits to not transfer the moneys in the fund to any other fund or ac-  
 18 count to be used for other purposes. This subsection does not impair the force or effect of  
 19 any law of this state specifically authorizing the investment of moneys from the fund.**

20 **SECTION 4.** ORS 276.285 is amended to read:

21 276.285. (1) It is the policy of the State of Oregon, in keeping with the benchmark relating to  
 22 public infrastructure and development adopted by the Oregon Progress Board, to facilitate and en-  
 23 courage state agencies that own real property and operate facilities to manage and develop these  
 24 properties in an effective and businesslike manner. The maintenance, preservation and development  
 25 of state-owned real property and facilities, including, but not limited to, educational institutions,  
 26 hospitals, parks, roads, libraries and fish hatcheries is essential to enable the State of Oregon to  
 27 meet the needs of its citizens now and in the future. The purpose of chapter 452, Oregon Laws 1995,  
 28 is to maintain and protect the investment of the State of Oregon in its public infrastructure.

29 (2)(a) Any state agency that owns and operates real property or facilities is authorized to es-  
 30 tablish a separate dedicated account in the State Treasury for the purpose of paying the expenses  
 31 of constructing, operating, maintaining, repairing, replacing, equipping, improving, acquiring and  
 32 disposing of such real property and facilities. All moneys in an account established pursuant to this  
 33 subsection are appropriated continuously to the agency for the purposes described in this sub-  
 34 section. All interest earned on moneys in the account shall be retained in and credited to the ac-  
 35 count.

36 (b) **Each account established pursuant to paragraph (a) of this subsection is a trust ac-  
 37 count exclusively for the purposes declared in paragraph (a) of this subsection. The State of  
 38 Oregon declares that it has no proprietary interest in the account and disclaims any right  
 39 to claim contributions made to the account from sources other than the General Fund. The  
 40 Legislative Assembly unambiguously expresses an intention to create a contractual obli-  
 41 gation of the state, to persons who pay fees for deposit into the account or contribute mon-  
 42 eys to the account, to use the moneys in the account only for the purposes declared in  
 43 paragraph (a) of this subsection and commits to not transfer the moneys in the account to  
 44 any other fund or account to be used for other purposes. This paragraph does not impair the  
 45 force or effect of any law of this state specifically authorizing the investment of moneys**

1 **from the account.**

2 (3) Any state agency that owns or operates real property or facilities may establish a rental  
 3 program for the purpose of recovering and paying for the costs, including debt service, of con-  
 4 structing, operating, maintaining, repairing, replacing, equipping, improving and disposing of real  
 5 property and facilities consistent with the statutory authority of the state agency. All revenues from  
 6 such rental programs shall be deposited in the account established pursuant to subsection (2) of this  
 7 section.

8 (4) Whenever a state agency that owns and operates real property and facilities, and that has  
 9 an established account under subsection (2) of this section sells or leases real property, the proceeds  
 10 from the sale or lease shall be credited to the account established pursuant to subsection (2) of this  
 11 section, unless disposition of the proceeds is otherwise provided by law.

12 (5) If a state agency that owns and operates real property and facilities has other statutory  
 13 authority to provide funding for real property and facility operation and management, the agency  
 14 may use that authority in lieu of or in addition to the provisions of this section.

15 (6) When a state agency establishes an account pursuant to subsection (2) of this section, the  
 16 agency shall provide a report of the revenues to and expenditures from the account as part of its  
 17 budget submission to the Governor and the Legislative Assembly under ORS chapter 291. The es-  
 18 tablishment by state agencies of rental rates for real property or facilities pursuant to this section  
 19 shall be on a biennial basis as part of the budget development process, but modification of the rates  
 20 may be made during the interim between legislative sessions after a report to the Emergency Board  
 21 of the proposed rate modification.

22 **SECTION 5.** ORS 321.185 is amended to read:

23 321.185. (1) There hereby is established in the State Treasury in the General Fund an account  
 24 to be known as the Forest Research and Experiment Account, which account hereby is appropriated  
 25 continuously to the State Board of Higher Education for the purposes of ORS 526.215 and 526.225.

26 (2) The Forest Research and Experiment Account shall consist of allocations from harvest taxes  
 27 as provided in ORS 321.015 (1).

28 **(3) The Forest Research and Experiment Account is a trust account exclusively for the**  
 29 **uses and purposes described in this section. The State of Oregon declares that it has no**  
 30 **proprietary interest in the Forest Research and Experiment Account and disclaims any right**  
 31 **to claim contributions made to the account from sources other than the General Fund. The**  
 32 **Legislative Assembly unambiguously expresses an intention to create a contractual obli-**  
 33 **gation of the state, to persons who pay fees for deposit into the account or contribute mon-**  
 34 **eys to the account, to use the moneys in the account only for the purposes described in this**  
 35 **section and commits to not transfer the moneys in the account to any other fund or account**  
 36 **to be used for other purposes. This subsection does not impair the force or effect of any law**  
 37 **of this state specifically authorizing the investment of moneys from the account.**

38 **SECTION 6.** ORS 477.750 is amended to read:

39 477.750. (1) The Oregon Forest Land Protection Fund is created, separate and distinct from the  
 40 General Fund. This fund shall be held by the State Treasurer as a trust fund for the uses and pur-  
 41 poses provided in ORS 477.750 to 477.775 and 477.880. The State Treasurer shall deposit and invest  
 42 moneys in the fund as provided by law, taking into account its uses and purposes. Interest earned  
 43 by the fund shall be credited to the fund.

44 (2) Notwithstanding any other law and as limited by ORS 477.750 to 477.775 and 477.880, that  
 45 part of the suspense account created by ORS 321.145 that is derived from the tax levied by ORS

1 321.015 (2) after refunds and other costs permitted by law, shall be credited to the Oregon Forest  
2 Land Protection Fund.

3 **(3) The Oregon Forest Land Protection Fund is a trust fund exclusively for the uses and**  
4 **purposes described in subsection (1) of this section. The State of Oregon declares that it has**  
5 **no proprietary interest in the Oregon Forest Land Protection Fund and disclaims any right**  
6 **to claim contributions made to the fund from sources other than the General Fund. The**  
7 **Legislative Assembly unambiguously expresses an intention to create a contractual obli-**  
8 **gation of the state, to persons who pay fees for deposit into the Oregon Forest Land Pro-**  
9 **tection Fund or contribute moneys to the fund, to use the moneys in the fund only for the**  
10 **purposes described in subsection (1) of this section and commits to not transfer the moneys**  
11 **in the fund to any other fund or account to be used for other purposes. This subsection does**  
12 **not impair the force or effect of any law of this state specifically authorizing the investment**  
13 **of moneys from the fund.**

14 **SECTION 7.** ORS 477.560 is amended to read:

15 477.560. (1) The Oregon Forest Smoke Management Account is established separate and distinct  
16 from the General Fund in the State Treasury.

17 (2) The following moneys shall be credited to the Oregon Forest Smoke Management Account:

18 (a) Nonrefundable registration fees received by the State Forestry Department for Class 1  
19 forestland under ORS 526.324 to be burned west of the summit of the Cascade Mountains, not in-  
20 cluding Hood River County.

21 (b) Fees received by the State Forester for Class 1 forestland under ORS 526.324 treated by a  
22 prescription burn method under ORS 477.515 (1) west of the summit of the Cascade Mountains, not  
23 including Hood River County.

24 (c) Fees for federal forestland included within the regulated area under ORS 477.013 to be  
25 treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air  
26 Act Implementation Plan and the federal Clean Air Act received by the State Forester.

27 (3) The moneys in the Oregon Forest Smoke Management Account are appropriated contin-  
28 uously for and shall be used by the State Forester exclusively for the administration of the smoke  
29 management program approved under ORS 477.013 and 477.554.

30 **(4) The Oregon Forest Smoke Management Account is a trust account exclusively for the**  
31 **uses and purposes described in subsection (3) of this section. The State of Oregon declares**  
32 **that it has no proprietary interest in the Oregon Forest Smoke Management Account and**  
33 **disclaims any right to claim contributions made to the account from sources other than the**  
34 **General Fund. The Legislative Assembly unambiguously expresses an intention to create a**  
35 **contractual obligation of the state, to persons who pay fees for deposit into the account or**  
36 **contribute moneys to the account, to use the moneys in the account only for the purposes**  
37 **described in subsection (3) of this section and commits to not transfer the moneys in the**  
38 **account to any other fund or account to be used for other purposes. This subsection does**  
39 **not impair the force or effect of any law of this state specifically authorizing the investment**  
40 **of moneys from the account.**

41 **SECTION 8.** ORS 526.060 is amended to read:

42 526.060. (1) Except as provided in ORS 526.121, 530.147 and 530.280, all assessments, federal ap-  
43 portionments or contributions, and other moneys received by the forester or State Board of Forestry,  
44 shall be paid into the State Treasury and credited to the State Forestry Department Account, which  
45 is established separate and distinct from the General Fund. All moneys in the State Forestry De-

1 partment Account are continuously appropriated, and shall be used by the forester, under the  
 2 supervision and direction of the board, for the purposes authorized by law.

3 (2) The forester shall keep a record of all moneys deposited in the State Forestry Department  
 4 Account. The record shall indicate by separate cumulative accounts the source from which the  
 5 moneys are derived and the individual activity or program against which each withdrawal is  
 6 charged. All moneys in the account received pursuant to ORS 527.610 to 527.770 and 527.992 shall  
 7 be used only for carrying out the duties, functions and powers of the State Forestry Department in  
 8 administering ORS 527.610 to 527.770 and 527.992.

9 (3) The Urban and Community Forestry Subaccount is established as a subaccount of the State  
 10 Forestry Department Account. Moneys in the Urban and Community Forestry Subaccount are con-  
 11 tinuously appropriated to the State Forestry Department to be used for urban and community forest  
 12 activities described in ORS 469.634 and 469.652.

13 (4) The State Forest Enhancement Donation Subaccount is established as a subaccount to the  
 14 State Forestry Department Account. Moneys in the State Forest Enhancement Donation Subaccount  
 15 are continuously appropriated to the State Forestry Department to be used for the purposes de-  
 16 scribed in ORS 526.065.

17 (5) The State Forest Nursery Subaccount is established as a subaccount to the State Forestry  
 18 Department Account. Moneys in the State Forest Nursery Subaccount are continuously appropriated  
 19 to the State Forestry Department to be used for the purposes described in ORS 526.235.

20 (6) The State Forest Tree Seed Bank Subaccount is established as a subaccount to the State  
 21 Forestry Department Account. Moneys in the State Forest Tree Seed Bank Subaccount are contin-  
 22 uously appropriated to the State Forestry Department to be used for the purposes described in ORS  
 23 526.470.

24 (7) The State Forest Tree Seed Orchard Subaccount is established as a subaccount to the State  
 25 Forestry Department Account. Moneys in the State Forest Tree Seed Orchard Subaccount are con-  
 26 tinuously appropriated to the State Forestry Department to be used for the purposes described in  
 27 ORS 526.472.

28 (8) Notwithstanding ORS 291.238, the moneys credited to the subaccounts established under  
 29 subsections (5), (6) and (7) of this section shall be continuously available on a revolving basis.

30 **(9) Moneys deposited in the State Forestry Department Account pursuant to ORS 477.062,**  
 31 **477.270, 477.412, 477.580 (5) and 526.146, or deposited into the State Forest Tree Seed Orchard**  
 32 **Subaccount established by subsection (7) of this section, are considered to be held in trust**  
 33 **exclusively for the uses and purposes described in ORS 477.062, 477.270, 477.412, 477.580 (5)**  
 34 **or 526.146 or subsection (7) of this section. The State of Oregon declares that it has no pro-**  
 35 **prietary interest in the moneys described in this subsection and disclaims any right to claim**  
 36 **contributions made to the account or subaccount from sources described in this subsection**  
 37 **other than the General Fund. The Legislative Assembly unambiguously expresses an inten-**  
 38 **tion to create a contractual obligation of the state, to persons who pay fees for deposit into**  
 39 **the account or subaccount or who contribute moneys to the account from sources described**  
 40 **in this subsection, to use the moneys only for the purposes described in this subsection and**  
 41 **commits to not transfer the moneys in the subaccount or account from sources described**  
 42 **in this subsection to any other fund or account to be used for other purposes. This sub-**  
 43 **section does not impair the force or effect of any law of this state specifically authorizing**  
 44 **the investment of moneys from the subaccount or account.**

45 **SECTION 9.** ORS 526.720 is amended to read:

1       526.720. (1) The Forest Resource Trust Fund is created in the State Treasury, separate and  
2 distinct from the General Fund. The Forest Resource Trust Fund shall consist of all moneys received  
3 from whatever source to carry out the duties, functions and powers of the Forest Resource Trust.  
4 All earnings on moneys in the fund shall be retained in the fund. All moneys in the fund are ap-  
5 propriated continuously to the State Forestry Department to carry out the duties, functions and  
6 powers of the Forest Resource Trust, including State Forestry Department administrative expenses.

7       **(2) The Forest Resource Trust Fund is a trust fund exclusively for the uses and purposes**  
8 **described in subsection (1) of this section. The State of Oregon declares that it has no pro-**  
9 **prietary interest in the Forest Resource Trust Fund and disclaims any right to claim con-**  
10 **tributions made to the fund from sources other than the General Fund. The Legislative**  
11 **Assembly unambiguously expresses an intention to create a contractual obligation of the**  
12 **state, to persons who pay fees for deposit into the Forest Resource Trust Fund or contribute**  
13 **moneys to the fund, to use the moneys in the fund only for the purposes described in sub-**  
14 **section (1) of this section and commits to not transfer the moneys in the fund to any other**  
15 **fund or account to be used for other purposes. This subsection does not impair the force or**  
16 **effect of any law of this state specifically authorizing the investment of moneys from the**  
17 **fund.**

18       **SECTION 10.** ORS 526.675 is amended to read:

19       526.675. (1) The Oregon Forest Resources Institute Fund is created in the State Treasury, sepa-  
20 rate and distinct from the General Fund. Except as otherwise provided by law, all moneys received  
21 by the Oregon Forest Resources Institute shall be paid into the State Treasury and credited to the  
22 fund. All moneys in the fund are appropriated continuously to the institute to carry out its duties,  
23 functions and powers. Interest earnings on all moneys in the fund shall be retained in the fund.

24       (2) The board of directors of the institute may repay moneys from the fund to persons who paid  
25 a privilege tax levied under ORS 321.017. The board may repay the amount of tax paid upon appli-  
26 cation by the person who paid the tax. The board shall adopt rules necessary for the implementation  
27 of this subsection. Rules adopted by the board shall include standards for the repayment of moneys  
28 and limits on the amount that may be requested.

29       **(3) The Oregon Forest Resources Institute Fund is a trust fund exclusively for the uses**  
30 **and purposes described in this section. The State of Oregon declares that it has no proprie-**  
31 **tary interest in the Oregon Forest Resources Institute Fund and disclaims any right to claim**  
32 **contributions made to the fund from sources other than the General Fund. The Legislative**  
33 **Assembly unambiguously expresses an intention to create a contractual obligation of the**  
34 **state, to persons who pay fees for deposit into the Oregon Forest Resources Institute Fund**  
35 **or contribute moneys to the fund, to use the moneys in the fund only for the purposes de-**  
36 **scribed in this section and commits to not transfer the moneys in the fund to any other fund**  
37 **or account to be used for other purposes. This subsection does not impair the force or effect**  
38 **of any law of this state specifically authorizing the investment of moneys from the fund.**

39       **SECTION 11.** Section 2 of this 2011 Act and the amendments to ORS 276.285, 321.185,  
40 477.560, 477.750, 526.060, 526.675, 526.720 and 561.144 by sections 3 to 10 of this 2011 Act apply  
41 to moneys deposited in a fund, account or subaccount on or after the effective date of this  
42 2011 Act.

43       **SECTION 12.** This 2011 Act being necessary for the immediate preservation of the public  
44 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
45 on its passage.

