

Enrolled
Senate Bill 342

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CHAPTER

AN ACT

Relating to the use of Parks and Natural Resources Fund moneys; creating new provisions; amending ORS 390.134, 390.180, 541.351, 541.360, 541.370, 541.371, 541.373, 541.375, 541.376, 541.377, 541.379, 541.392, 541.397, 541.401 and 805.256; repealing ORS 541.378, 541.379, 541.397 and 541.399 and section 276, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 242); appropriating money; and declaring an emergency.

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

PARKS AND NATURAL RESOURCES FUND

SECTION 1. ORS 541.377 is amended to read:

541.377. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Parks and Natural Resources Fund to be administered by the Oregon Department of Administrative Services. All moneys transferred from the State Lottery Fund and all other moneys authorized to be transferred to the Parks and Natural Resources Fund from whatever source are appropriated continuously for the public purposes of restoring and protecting Oregon's parks, beaches, watersheds and [critical] **native** fish and wildlife habitats. Fifteen percent of the net proceeds from the Oregon State Lottery shall be deposited in the Parks and Natural Resources Fund created under this subsection.

[(2) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State Lottery, 50 percent shall be deposited into a Parks Subaccount for the public purpose of financing the protection, repair, operation, creation and development of state parks, ocean shores, public beach access areas, historic sites and recreation areas. The State Treasurer may invest and reinvest the moneys in the Parks Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the subaccount and earnings from investment of the moneys in the subaccount shall be credited to the subaccount.]

[(3) All moneys in the Parks Subaccount for financing the protection, repair, operation, creation and development of state parks, ocean shores, public beach access areas, historic sites and recreation areas shall be allocated to the State Parks and Recreation Department. Such moneys shall be deposited into the State Parks and Recreation Department Fund established under ORS 390.134 and shall be used for the following purposes:]

[(a) Maintaining, constructing, improving, developing, managing and operating state park and recreation facilities, programs and areas.]

[(b) Acquiring real property, or interest therein, deemed necessary for the creation and operation of state parks, ocean shores, public beach access areas, recreation areas and historic sites or because of natural, scenic, cultural, historic and recreational values.]

[(c) Operating grant programs for local government entities deemed necessary to accomplish the public purposes of the Parks and Natural Resources Fund.]

[(4) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State Lottery, 50 percent shall be deposited into a Restoration and Protection Subaccount for the public purpose of financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality in Oregon. The State Treasurer may invest and reinvest the moneys in the Restoration and Protection Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the subaccount and earnings from investment of the moneys in the subaccount shall be credited to the Restoration and Protection Research Fund created under ORS 541.378.]

[(5) The moneys in the Restoration and Protection Subaccount for financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality shall be administered by the Oregon Watershed Enhancement Board and shall be used for all of the following purposes:]

[(a) Restoration and protection of watersheds and fish, wildlife, riparian and native species and for habitat conservation activities, including but not limited to planning, coordination, assessment, implementation, restoration, inventory, information management and monitoring activities.]

[(b) Watershed and riparian education efforts.]

[(c) Development and implementation of watershed and water quality enhancement plans.]

[(d) Entering into agreements to obtain from willing owners determinate interests in lands and waters that protect watershed resources, including but not limited to fee simple interests in land, leases of land or water or conservation easements.]

[(e) Enforcement of fish and wildlife and habitat protection laws and regulations.]

[(6) Of the moneys deposited into the Restoration and Protection Subaccount from the Oregon State Lottery, the Oregon Watershed Enhancement Board shall deposit:]

[(a) Sixty-five percent of the funds into the Watershed Improvement Grant Fund established under ORS 541.397 to be used only for funding capital expenditure projects; and]

[(b) Thirty-five percent of the funds into the Watershed Improvement Operating Fund established under ORS 541.379 to be used for the purposes set forth in ORS 541.379 (1).]

*[(7)] (2) The Legislative Assembly [shall] **may** not limit expenditures from the Parks and Natural Resources Fund. The Legislative Assembly may appropriate other moneys or revenues to the Parks and Natural Resources Fund.*

PARKS SUBACCOUNT

SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS chapter 390.

SECTION 3. (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Parks Subaccount. The State Treasurer may invest and reinvest the moneys in the Parks Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the Parks Subaccount and earnings from investment of the moneys in the subaccount shall be credited to the subaccount.

(2) Moneys deposited from the Oregon State Lottery to the Parks Subaccount may be used only for:

(a) Maintaining, constructing, improving, developing, managing and operating state parks, ocean shores, public beach access areas, historic sites, natural areas and outdoor and recreation areas;

(b) Acquiring real property, or interests in real property, that has significant natural, scenic, cultural, historic or recreational value for the creation or operation of state parks, ocean shores, public beach access areas, outdoor recreation areas and historic sites; and

(c) Providing grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas.

(3) All moneys in the Parks Subaccount shall be transferred to the State Parks and Recreation Department Fund and used to carry out the purposes described in subsection (2) of this section by achieving each of the following:

(a) Providing additional public parks, natural areas or outdoor recreation areas to meet the needs of current and future residents of this state.

(b) Protecting natural, cultural, historic and outdoor recreational resources of statewide or regional significance.

(c) Managing public parks, natural areas and outdoor recreation areas to ensure the long-term ecological health of those parks and areas and to provide for the enjoyment of those parks and areas by current and future residents of this state.

(d) Providing diverse and equitable opportunities for residents of this state to experience nature and to participate in outdoor recreational activities in state, regional, local or neighborhood public parks and recreation areas.

STATE PARKS AND RECREATION DEPARTMENT FUND

SECTION 4. ORS 390.134 is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), (8) or (9) of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty-five percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

~~(8)~~ **(11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.**

(12) On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount.

Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

SECTION 5. ORS 390.134, as amended by section 2, chapter 792, Oregon Laws 2007, and section 47, chapter 11, Oregon Laws 2009, is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), (8) or (9) of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[8] **(11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.**

(12) On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

SECTION 6. ORS 390.180 is amended to read:

390.180. (1) The State Parks and Recreation Director shall adopt rules that:

(a) Establish the standards the State Parks and Recreation Department shall use when that department:

(A) Performs comprehensive statewide recreational planning; or

(B) Disburses any moneys to **regional or** local governments or other state agencies under programs established under state or federal law.

(b) Establish a process for the development of a master plan for each state park, including public participation and coordination with affected local governments.

(c) Establish a master plan for each state park, including an assessment of resources and a determination of the capacity for public use and enjoyment of each park, that the State Parks and Recreation Department shall follow in its development and use of each park.

(d) Make state funding assistance available to **regional or local governments that demonstrate cooperation with** nonprofit veterans' organizations for the construction and restoration of memorials honoring veterans and war memorials located on public property.

(2) The State Parks and Recreation Director shall submit an adopted state park master plan to the local government with land use planning responsibility for the subject park.

NATURAL RESOURCES DEFINITIONS

SECTION 7. ORS 541.351 is amended to read:

541.351. As used in ORS 541.351 to 541.415:

(1) "Adaptive management" means applying management or practices over time and across the landscape to achieve site specific resource goals using an integrated and science based approach that results in changes over time in response to feedback or monitoring.

(2) "Associated uplands" includes those lands of a watershed that are critical to the functioning and protection of a riparian area.

(3) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.360.

[(4) "*Capital expenditures*" means direct expenses related to:]

[(a) *Personal property of a nonexpendable nature including items that are not consumed in the normal course of operations, can normally be used more than once, have a useful life of more than two years and are for use in the enforcement of fish and wildlife and habitat protection laws and regulations; or*]

[(b) *Projects that restore, enhance or protect fish and wildlife habitat, watershed functions, native salmonid populations or water quality, including but not limited to:*]

[(A) *Expenses of assessment, research, design or other technical requirements for the implementation of a project;*]

[(B) *The acquisition of determinate interests, including fee and less than fee interests, in land or water in order to protect watershed resources, including appraisal costs and other costs directly related to such acquisitions;*]

[(C) *Development, construction or implementation of a project to restore, enhance or protect water quality, a watershed, fish or wildlife, or riparian or other habitat;*]

[(D) *Technical support directly related to the implementation of a project; and*]

[(E) *Monitoring or evaluation activities necessary to determine the actual effectiveness of a project.*]

[(5)] (4) "Independent Multidisciplinary Science Team" means the scientific team of recognized experts in fisheries, artificial propagation, stream ecology, forestry, range, watershed and agricultural management created under ORS 541.409.

[(6)] (5) "Native" means indigenous to Oregon and not introduced.

(6) "Oregon Conservation Strategy" means the comprehensive wildlife conservation strategy for this state adopted by the State Fish and Wildlife Commission.

(7) "Oregon Plan" means the guidance statement and framework described in ORS 541.405.

(8) "Protect" or "protection" means to minimize or mitigate adverse effects on [*salmonid and*] **native fish or wildlife** habitat to the maximum extent practicable given the anticipated duration, geographic scope and primary purpose of proposed activities.

(9) "Restore" or "restoration" means to take actions likely to achieve sustainable population levels of native fish or wildlife and their habitats.

(10) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream.

(11) "Soil and water conservation district" means a political subdivision of the state as described in ORS 568.550.

- (12) "Stewardship" means the careful and responsible management of the environment.
- (13) "Tribe" means a federally recognized Indian tribe in Oregon.
- (14) "Watershed" means the entire land area drained by a stream or system of connected streams such that all streamflow originating in the area is discharged through a single outlet.
- (15) "Watershed council" means a voluntary local organization, designated by a local government group convened by a county governing body, to address the goal of sustaining natural resource and watershed protection, restoration and enhancement within a watershed.

NATURAL RESOURCES SUBACCOUNT

SECTION 8. Sections 9 and 10 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

SECTION 9. (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Natural Resources Subaccount for the public purpose of financing the restoration and protection of native fish and wildlife, watersheds and water quality in Oregon. The State Treasurer may invest and reinvest the moneys in the Natural Resources Subaccount as provided in ORS 293.701 to 293.820.

(2) Moneys in the Natural Resources Subaccount shall be used to accomplish each of the following:

- (a) Protecting and improving water quality in the rivers, lakes and streams of this state by restoring natural watershed functions or stream flows;
- (b) Securing long-term protection for lands and waters that provide significant habitats for native fish and wildlife;
- (c) Restoring and maintaining habitat needed to sustain healthy and resilient populations of native fish and wildlife;
- (d) Maintaining the diversity of plants, animals and ecosystems in this state;
- (e) Involving people in voluntary actions to protect, restore and maintain the ecological health of lands and waters in this state; and
- (f) Remedying the conditions that limit the health of fish and wildlife, fish and wildlife habitats and watershed functions that are in the greatest need of conservation.

(3) Except as provided in subsections (4) and (5) of this section, of the moneys deposited into the Natural Resources Subaccount from the Oregon State Lottery:

- (a) Sixty-five percent of the moneys shall be deposited into the Watershed Conservation Grant Fund established under section 12 of this 2011 Act to be used by the Oregon Watershed Enhancement Board for the purposes set forth in section 13 of this 2011 Act; and
- (b) Thirty-five percent of the moneys shall be deposited into the Watershed Conservation Operating Fund established under section 16 of this 2011 Act.

(4) If the amount transferred from the Oregon State Lottery to the Parks and Natural Resources Fund during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, except as provided in subsection (5) of this section, the State Treasurer shall, during the next following biennium, deposit from the Natural Resources Subaccount to the Watershed Conservation Grant Fund the amount described in subsection (3)(a) of this section plus an amount equal to the difference between the amount deposited from the subaccount to the Watershed Conservation Grant Fund during the preceding biennium and 70 percent of the moneys received by the subaccount from the Oregon State Lottery during the preceding biennium.

(5) The requirements in subsections (3) and (4) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the Natural Resources Subaccount moneys to be deposited into the Watershed Conservation Grant Fund. The Legislative Assembly may not authorize the percentage of Natural Resources Subaccount moneys deposited into the Watershed Conservation Grant Fund in a biennium to be

less than the percentage required to be deposited under subsections (3) and (4) of this section.

SECTION 10. Each state agency that receives moneys from the Natural Resources Sub-account created under section 9 of this 2011 Act shall submit a report to the Legislative Assembly each biennium regarding the use of the moneys by the agency. The report shall include, but need not be limited to, a description of the measurable biennial and cumulative results of the activities and programs for which the agency expended the moneys. Reports required by this section are in addition to any audit report supplied by the Secretary of State under ORS chapter 297.

WATERSHED CONSERVATION GRANT FUND

SECTION 11. Sections 12 and 13 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

SECTION 12. (1) The Watershed Conservation Grant Fund is established separate and distinct from the General Fund. The Watershed Conservation Grant Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Conservation Grant Fund are continuously appropriated to the Oregon Watershed Enhancement Board for grants to fund projects described in ORS 541.401 that use grant moneys as provided under section 13 of this 2011 Act. Interest accruing to the Watershed Conservation Grant Fund shall be credited to the fund. Watershed Conservation Grant Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Grant Fund.

(2) The board also may accept gifts and grants from any public or private source for the purpose of providing the grants described in this section.

SECTION 13. The purpose of the Watershed Conservation Grant Fund is to provide funding for grants to achieve the purposes and uses described in section 9 of this 2011 Act and to implement the mission of the Oregon Plan, including but not limited to grants to further the Oregon Conservation Strategy and the watershed health and native fish recovery programs of this state. Moneys appropriated to the fund shall be used only for the following activities:

(1) Acquiring from willing owners interests in land or water that will protect or restore native fish or wildlife habitats. The interests may include, but need not be limited to, fee interests, conservation easements or leases.

(2) Projects to protect or restore native fish habitat or wildlife habitat.

(3) Projects to protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows.

(4) Resource assessment, planning, design and engineering, technical assistance, monitoring and outreach activities necessary for carrying out subsections (1) to (3) of this section.

SECTION 14. ORS 541.401 is amended to read:

541.401. The Oregon Watershed Enhancement Board may award funds from the Watershed *[Improvement]* **Conservation** Grant Fund only for *[the purposes listed in ORS 541.399]* **activities described in section 13 of this 2011 Act.** Any project that the board approves for funding shall comply with the following criteria:

(1) There is a matching contribution from other program funds, in-kind services or other investment in the project;

(2) The project to be funded is reviewed and approved by a technical committee **established** in accordance with ORS 541.370 *[(3)]*; and

(3) The project provides a public benefit *[through]* **by supporting** improved:

(a) Water quality;

(b) **Native** fish or wildlife habitat; or

(c) [Public information or education on a] Watershed or ecosystem function.
SECTION 15. ORS 541.399 is repealed.

WATERSHED CONSERVATION OPERATING FUND

SECTION 16. (1) The Watershed Conservation Operating Fund is established in the State Treasury separate and distinct from the General Fund. The Watershed Conservation Operating Fund shall consist of all moneys placed in the fund as provided by law. The purpose of the fund is to carry out activities that support all of the purposes described in section 9 of this 2011 Act. Moneys in the Watershed Conservation Operating Fund shall be used for each of the following:

(a) To develop, implement or update state conservation strategies or plans to protect or restore native fish or wildlife habitats or to protect or restore natural watershed or ecosystem functions to improve water quality or stream flows;

(b) To develop, implement or update regional or local strategies or plans that are consistent with state strategies or plans described in paragraph (a) of this subsection;

(c) To develop, implement or update state strategies or plans to prevent, detect, control or eradicate invasive species that threaten native fish or wildlife habitats or that impair water quality;

(d) To support local delivery, including but not limited to delivery by watershed councils, soil and water conservation districts and other community-based organizations, of watershed education activities and other programs or projects that protect or restore native fish or wildlife habitats, watersheds or ecosystems;

(e) To pay the Oregon Watershed Enhancement Board costs of administering the Watershed Conservation Grant Fund;

(f) To enforce fish and wildlife laws and regulations and fish and wildlife habitat protection laws and regulations; and

(g) To reimburse the Secretary of State as described in ORS 297.230 for the costs of audits performed by the Secretary of State under section 4c, Article XV of the Oregon Constitution.

(2) Interest accruing to the Watershed Conservation Operating Fund shall be credited to the fund. Watershed Conservation Operating Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Operating Fund.

(3) Any public or private source may make gifts or grants to the Watershed Conservation Operating Fund.

SECTION 17. ORS 541.373 is amended to read:

541.373. (1) The Governor may receive gifts, grants, bequests, endowments and donations of moneys from public and private sources, including the federal government, for the purpose of implementing the Oregon Plan, as described in ORS 541.405, **and the Oregon Conservation Strategy.**

(2) **If requested by the source, the Governor shall deposit moneys received under this section into the Watershed Conservation Grant Fund for use as provided under section 13 of this 2011 Act.** The Governor shall deposit **all other** moneys received under this section in the State Treasury to the credit of the Watershed [*Improvement*] **Conservation** Operating Fund established under [*ORS 541.379 to be used for the purposes specified in ORS 541.379 (1)(b)*] **section 16 of this 2011 Act.**

SECTION 18. ORS 541.371 is amended to read:

541.371. (1) In addition to the duties set forth in ORS 541.370, in carrying out the provisions of ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board:

(a) Shall establish a framework for a locally based integrated watershed planning and management process designed to assist watershed councils, [*and*] soil and water conservation districts **and**

other partners and to support the efforts of watershed councils, [and] soil and water conservation districts **and other partners** to work within the requirements of state and federal laws without duplication of planning effort. The framework shall include all of the following:

(A) Guidance and protocols for watershed assessments to encourage consistent assessment methods across all watersheds and agencies, including assessment of cumulative effects. At a minimum, such guidance shall address the following plan components:

(i) A description of the watershed;

(ii) An assessment of current watershed conditions and the distribution and condition of habitat;

and

(iii) Identification of conditions preventing watershed restoration.

(B) Guidance on how to prepare watershed action plans. At a minimum, such guidance shall address the following plan components:

(i) Applicable water quality standards and native salmonid and habitat recovery objectives;

(ii) Proposed measures needed to restore watershed health;

(iii) Timeline and budget estimates for implementation of action measures in priority order; and

(iv) Monitoring and evaluation systems.

(b) May review plans, actions and rules of state agencies pertaining to restoration and protection grants for the purpose of coordinating the board's grant program with other ongoing grant programs.

(c) Shall establish statewide and regional goals and priorities that shall become the basis for funding decisions by the board. In adopting such goals and priorities, the board shall adopt priorities for grant funding based on the Oregon Plan, **the Oregon Conservation Strategy, the watershed health and native fish recovery programs of this state** and [on] measurable goals. In carrying out this function, the board shall consider local economic and social impacts among the criteria.

(d) Shall support development and implementation of a system that enables standardized collection, management and reporting of natural resources information in Oregon, including water data, geographic information system data and information on native fish and wildlife and habitat.

(e) Shall promote the availability of information on the effects of watershed enhancement.

(f) May not have regulatory or enforcement authority except for the fiscal responsibilities described in ORS 541.351 to 541.415.

(2) In addition to [the uses of grant funds described in ORS 541.399, in allocating grant funds under ORS 541.351 to 541.415 that are derived from the Restoration and Protection Subaccount, the board:] **any other expenditures consistent with section 16 of this 2011 Act, moneys in the Watershed Conservation Operating Fund may be expended in the form of grants or allocations:**

(a) [May allocate funds to be used for staff for] **To soil and water conservation districts and watershed councils[,] for costs of employing staff to further the development and implementation of activities, projects and programs for the purposes described in section 16 of this 2011 Act; or**

(b) [May award funds] For a specific project or program application or for implementation of an approved action plan.

(3) To the maximum extent practicable, soil and water conservation districts and watershed councils shall share technical staff.

SECTION 19. ORS 805.256 is amended to read:

805.256. (1) After deduction of the cost of administration of the salmon registration plate program, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as follows:

(a) Half of the moneys shall be transferred to the [Oregon Watershed Enhancement Board established under ORS 541.360 and are continuously appropriated to the board] **Watershed Conservation Operating Fund** for activities under [ORS 541.379] **section 16 of this 2011 Act** related to the restoration and protection of [native salmonid populations, watersheds, fish and wildlife habitats and

water quality, including but not limited to activities under the Oregon Plan] watersheds, native fish and wildlife and water quality; and

(b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund established under ORS 390.134 and continuously appropriated for the purposes described in ORS 390.134 (4).

(2) As used in this section, “the cost of administration of the salmon registration plate program” is the sum of all Department of Transportation expenses for the issuance or transfer of salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the salmon registration plate surcharge and transferring salmon registration plates.

OREGON WATERSHED ENHANCEMENT BOARD

SECTION 20. ORS 541.360 is amended to read:

541.360. (1) The Oregon Watershed Enhancement Board is created. The board shall consist of 17 members as set forth in subsection (2) of this section. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2)(a) The 11 voting members of the board shall be knowledgeable about natural resource issues, represent all geographic regions of this state and include at least one representative of a tribe. The board shall consist of the following:

(A) Each of the following boards or commissions shall designate one member of their board or commission to serve on the Oregon Watershed Enhancement Board:

- (i) The Environmental Quality Commission;
- (ii) The State Fish and Wildlife Commission;
- (iii) The State Board of Forestry;
- (iv) The State Board of Agriculture; and
- (v) The Water Resources Commission; and

(B) Six public members appointed by the Governor and confirmed by the Senate in accordance with ORS 171.562 and 171.565. Each public member shall serve for a term of four years. A member shall be eligible for reappointment, but no member shall serve more than two consecutive terms.

(b) In addition to the voting members, the director of the [*agricultural extension service of*] Oregon State University **Extension Service**, or the director’s designee, shall serve as a nonvoting member of the board and shall participate as needed in the activities of the board.

(c) In addition to the voting and nonvoting members designated in paragraphs (a) and (b) of this subsection, representatives of the following federal agencies shall be invited to serve as additional nonvoting members of the board:

- (A) A representative of the United States Forest Service.
- (B) A representative of the United States Bureau of Land Management.
- (C) A representative of the Natural Resources Conservation Service of the United States Department of Agriculture.
- (D) A representative of the United States Environmental Protection Agency.
- (E) A representative of the National Marine Fisheries Service of the United States Department of Commerce.

(3) The voting members of the board shall select a chairperson from among the voting members of the board.

(4) At least eight voting members of the board must be present to take action to award grant funds under ORS 541.370. If three or more voting members object to an award of grant funds, the board shall reject the proposal and direct the applicant to revise the proposal to comply with the requirements of ORS [*541.397, 541.399 and 451.401*] **541.401 and sections 12 and 13 of this 2011 Act** and resubmit the proposal.

SECTION 21. ORS 541.370 is amended to read:

541.370. (1) In carrying out the watershed enhancement program **described in ORS 541.365**, the Oregon Watershed Enhancement Board shall:

(a) Coordinate the board's funding of enhancement projects with the activities of the Natural Resources Division staff and other agencies, especially those agencies working together through a system of coordinated resource management planning.

(b) Use the expertise of the appropriate state agency according to the type of enhancement project.

(c) Provide educational and informational materials to promote public awareness and involvement in the watershed enhancement program.

(d) Coordinate and provide for or arrange for assistance in the activities of persons, agencies or political subdivisions developing local watershed enhancement projects funded by the board.

(e) Grant funds for the support of watershed councils in assessing watershed conditions, developing action plans, implementing projects and monitoring results and for the implementation of watershed enhancement projects from such moneys as may be available to the board therefor.

(f) Develop and maintain a centralized repository for information about the effects of watershed enhancement and education projects.

(g) Give priority to proposed watershed enhancement projects receiving funding or assistance from other sources.

(h) Identify gaps in research or available information about watershed health and enhancement.

(i) Cooperate with appropriate federal entities to identify the needs and interests of the State of Oregon so that federal plans and project schedules relating to watershed enhancement incorporate the state's intent to the fullest extent practicable.

(j) Encourage the use of nonstructural methods to enhance the riparian areas and associated uplands of Oregon's watersheds.

(k) Determine criteria for utilizing the private sector, both not-for-profit and for-profit organizations, to provide landowners with technical assistance to help develop and implement conservation easements and resource improvement projects.

(2) In accordance with ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board shall administer a watershed [*improvement*] **conservation** grant program using funds from the Watershed [*Improvement*] **Conservation** Grant Fund established under [ORS 541.397] **section 12 of this 2011 Act**, from the [*Restoration and Protection*] **Natural Resources** Subaccount established under [ORS 541.377] **section 9 of this 2011 Act** and from the Flexible Incentives Account established under ORS 541.381.

(3) To aid and advise the board in the performance of the functions of the board, the board may establish such advisory and technical committees as the board considers necessary. These committees may be continuing or temporary. The board shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The chairperson is ex officio a member of each committee.

SECTION 22. ORS 541.375 is amended to read:

541.375. (1)(a) [*Any person, tribe, watershed council, soil and water conservation district, community college, state institution of higher education, independent not-for-profit institution of higher education or political subdivision of this state that is not a state agency*] **The following entities** may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415[.]:

(A) **A person;**

(B) **An Indian tribe;**

(C) **A watershed council;**

(D) **A soil and water conservation district;**

(E) **A community college;**

(F) **A state institution of higher education;**

(G) **An independent not-for-profit institution of higher education; or**

(H) **A political subdivision of this state that is not a state agency.**

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with *[one of the other eligible entities]* **an entity described in paragraph (a) of this subsection.**

(2) The request under subsection (1) of this section shall be filed in the manner, be in the form and contain the information required by the Oregon Watershed Enhancement Board, **regardless of the anticipated funding source for the project.**

(3) The board may establish a grant program through soil and water conservation districts organized under ORS 568.210 to 568.808 and 568.900 to 568.933 that provides funds for local implementation of watershed enhancement, education and monitoring efforts.

(4) The board may fund implementation of action plans based on a watershed assessment that addresses water quality and aquatic resources of the watershed.

(5) A project may use mechanical, vegetative or structural methods including, but not limited to, management techniques, erosion control, streambank stabilization, forest, range or crop land treatment, site specific in-stream structures, acquisitions or leases of land or water rights from a willing owner, watershed assessments, landowner incentives and action plan development, implementation and monitoring.

(6) The actions of a soil and water conservation district carried out pursuant to a grant program established by the board under subsection (3) of this section shall not be subject to review and approval by the Natural Resources Division under ORS 561.400.

(7) *[The Oregon Watershed Enhancement Board shall approve for funding only those projects that:]* **If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:**

(a) *[Are]* **Is** based on sound principles of **native fish or wildlife habitat conservation or watershed management;**

(b) *[Use]* **Uses** methods most adapted to the project locale;

(c) *[Meet]* **Meets** the criteria established by the board under ORS 541.396; and

(d) *[Contribute]* **Contributes** to either:

(A) The improved health of a stream, lake or reservoir and toward the achievement of standards that satisfy the requirements of the Federal Water Pollution Control Act (P.L. 92-500), as amended; or

(B) The *[restoration of wildlife, habitat or native fish]* **conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.**

(8) The Oregon Watershed Enhancement Board may fund a project for the restoration of a riparian area or associated upland that is carried out in conjunction with a storage structure. However, the board shall not approve funding for any proposed project that consists solely of construction of a storage structure for out-of-stream use.

(9) The Oregon Watershed Enhancement Board may fund projects involving the acquisition of lands and waters, or interests therein from willing sellers, for the purpose of maintaining or restoring watersheds¹, *habitat and native salmonids* **and habitat for native fish or wildlife.** Interests in these lands and waters may be held by local, state and federal agencies, tribes, not-for-profit land conservation organizations and trusts, state institutions of higher education, independent not-for-profit institutions of higher education or political subdivisions of this state, as long as the entity continues to use the land or water for the purposes specified under section 4b, Article XV of the Oregon Constitution.

(10) If the Oregon Watershed Enhancement Board approves funding for a project under this section² *[that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body]*, the board *[shall]* **may** not disburse *[any]* funds to the applicant **for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body** until the applicant presents evidence that the agency has granted the permit or license.

SECTION 23. ORS 541.376 is amended to read:

541.376. (1) Land purchased through a grant agreement with the Oregon Watershed Enhancement Board shall be subject to title restrictions that **are consistent with the conservation purposes of the grant and** give the board the authority to approve, approve with conditions or deny the sale or transfer of the land. [*Specifically,*] The board may require conditions on the sale or transfer to:

- (a) Ensure consistency with the intent of the original grant;
 - (b) Ensure the ability of the party receiving the land through the sale or transfer to carry out the obligations under the grant agreement; and
 - (c) Address the disposition of proceeds from the sale or transfer, including any provisions for repayment, with interest, of any grant funds.
- (2) The board may not allow a sale or transfer that results in any profit to any person.
- (3) The board shall, by rule, define “profit” for the purpose of not allowing sales or transfers and shall specify the process and criteria that the board will use in considering whether to approve, approve with conditions or deny a sale or transfer.

SECTION 24. ORS 541.392 is amended to read:

541.392. [(1)] The Oregon Watershed Enhancement Board shall report biennially to the Legislative Assembly on the implementation of the management program under ORS 541.384 and grants awarded under [ORS 541.399] **section 13 of this 2011 Act.** The report shall include but need not be limited to:

[(a)] (1) An explanation of the effectiveness and workability of the partnership process described in ORS 541.384;

[(b)] (2) A description of any modifications to the process that have been instituted; **and**

[(c)] (3) Recommendations concerning the need for future legislative action.]; *and*]

[(d)] *Information about the use of moneys received by and distributed by the board under section 4b, Article XV of the Oregon Constitution.*]

[(2)] *The board shall include with each report under subsection (1) of this section a copy of each audit completed pursuant to section 4c, Article XV of the Oregon Constitution.*]

RESTORATION AND PROTECTION RESEARCH FUND

SECTION 25. ORS 541.378 is repealed. **The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Operating Fund moneys to the credit of the Watershed Improvement Operating Fund. The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Grant Fund moneys to the credit of the Watershed Improvement Grant Fund.**

WATERSHED IMPROVEMENT OPERATING FUND

SECTION 26. ORS 541.379 is amended to read:

541.379. (1) The Watershed Improvement Operating Fund is established in the State Treasury separate and distinct from the General Fund. The Watershed Improvement Operating Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Improvement Operating Fund are continuously appropriated for the following purposes:

(a) Operational activities of the Oregon Watershed Enhancement Board **for carrying out this section;**

(b) Activities of state and local agencies and other public entities **for which funding was approved by the board prior to the effective date of this 2011 Act and that are** related to the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality, including but not limited to activities under the Oregon Plan;

(c) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** that are not capital expenditures; and

(d) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** that are capital expenditures.

(2) Interest accruing to the Watershed Improvement Operating Fund shall be credited to *[the Restoration and Protection Research Fund created under ORS 541.378]* **the fund**. Funds appropriated and not expended by the completion of a biennium shall remain in the Watershed Improvement Operating Fund.

(3) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the Watershed Improvement Operating Fund.

(4) *[In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS 541.399,]* The board *[also]* may accept gifts and grants from any public or private source for the purposes described in subsection (1) of this section.

SECTION 27. ORS 541.379 is repealed on July 1, 2013. The State Treasurer shall transfer any balance of the Watershed Improvement Operating Fund remaining available and unexpended on July 1, 2013, to the credit of the Watershed Conservation Operating Fund.

WATERSHED IMPROVEMENT GRANT FUND

SECTION 28. ORS 541.397 is amended to read:

541.397. (1) The Watershed Improvement Grant Fund is established separate and distinct from the General Fund. The Watershed Improvement Grant Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Improvement Grant Fund are continuously appropriated to fund watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes that were issued prior to the effective date of this 2011 Act**. Interest accruing to the Watershed Improvement Grant Fund shall be credited to *[the Restoration and Protection Research Fund created under ORS 541.378]* **the fund**. Funds appropriated and not expended by the completion of a biennium shall remain in the Watershed Improvement Grant Fund.

(2) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the Watershed Improvement Grant Fund and provide grants from the fund *[for the purposes described in ORS 541.399 and 541.401 in the manner described under ORS 541.399 and 541.401]* **as described in subsection (1) of this section**.

(3) *[In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS 541.399,]* The board *[also]* may accept gifts and grants from any public or private source for the purpose of *[providing]* **funding** the grants described in subsection *[(2)]* (1) of this section.

SECTION 29. ORS 541.397 is repealed on July 1, 2015. The State Treasurer shall transfer any balance of the Watershed Improvement Grant Fund remaining available and unexpended on July 1, 2015, to the credit of the Watershed Conservation Grant Fund.

MISCELLANEOUS

SECTION 30. (1) Section 9 of this 2011 Act and the amendments to ORS 541.377 by section 1 of this 2011 Act are intended to change the name of the "Restoration and Protection Subaccount" to the "Natural Resources Subaccount."

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the "Restoration and Protection Subaccount," wherever they occur in statutory law, other words designating the "Natural Resources Subaccount."

SECTION 30a. If Senate Bill 242 becomes law, section 276, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 242) (amending ORS 541.375), is repealed and ORS 541.375, as amended by section 22 of this 2011 Act, is amended to read:

541.375. (1)(a) The following entities may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415:

- (A) A person;
- (B) An Indian tribe;
- (C) A watershed council;
- (D) A soil and water conservation district;
- (E) A community college;
- (F) A [state institution of higher education] **public university listed in ORS 352.002;**
- (G) An independent not-for-profit institution of higher education; or
- (H) A political subdivision of this state that is not a state agency.

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with an entity described in paragraph (a) of this subsection.

(2) The request under subsection (1) of this section shall be filed in the manner, be in the form and contain the information required by the Oregon Watershed Enhancement Board, regardless of the anticipated funding source for the project.

(3) The board may establish a grant program through soil and water conservation districts organized under ORS 568.210 to 568.808 and 568.900 to 568.933 that provides funds for local implementation of watershed enhancement, education and monitoring efforts.

(4) The board may fund implementation of action plans based on a watershed assessment that addresses water quality and aquatic resources of the watershed.

(5) A project may use mechanical, vegetative or structural methods including, but not limited to, management techniques, erosion control, streambank stabilization, forest, range or crop land treatment, site specific in-stream structures, acquisitions or leases of land or water rights from a willing owner, watershed assessments, landowner incentives and action plan development, implementation and monitoring.

(6) The actions of a soil and water conservation district carried out pursuant to a grant program established by the board under subsection (3) of this section shall not be subject to review and approval by the Natural Resources Division under ORS 561.400.

(7) If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:

(a) Is based on sound principles of native fish or wildlife habitat conservation or watershed management;

- (b) Uses methods most adapted to the project locale;
- (c) Meets the criteria established by the board under ORS 541.396; and
- (d) Contributes to either:

(A) The improved health of a stream, lake or reservoir and toward the achievement of standards that satisfy the requirements of the Federal Water Pollution Control Act (P.L. 92-500), as amended; or

(B) The conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.

(8) The Oregon Watershed Enhancement Board may fund a project for the restoration of a riparian area or associated upland that is carried out in conjunction with a storage structure. However, the board shall not approve funding for any proposed project that consists solely of construction of a storage structure for out-of-stream use.

(9) The Oregon Watershed Enhancement Board may fund projects involving the acquisition of lands and waters, or interests therein from willing sellers, for the purpose of maintaining or restoring watersheds and habitat for native fish or wildlife. Interests in these lands and waters may be held by local, state and federal agencies, tribes, not-for-profit land conservation organizations and

trusts, [state institutions of higher education] **public universities listed in ORS 352.002**, independent not-for-profit institutions of higher education or political subdivisions of this state, as long as the entity continues to use the land or water for the purposes specified under section 4b, Article XV of the Oregon Constitution.

(10) If the Oregon Watershed Enhancement Board approves funding for a project under this section, the board may not disburse funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body until the applicant presents evidence that the agency has granted the permit or license.

SECTION 30b. The amendments to ORS 541.375 by section 30a of this 2011 Act become operative on January 1, 2012.

CAPTIONS

SECTION 31. The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

EMERGENCY CLAUSE

SECTION 32. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on July 1, 2011.

Passed by Senate June 23, 2011

Received by Governor:

Repassed by Senate June 29, 2011

.....M.,....., 2011

Approved:

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Robert Taylor, Secretary of Senate

.....M.,....., 2011

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Peter Courtney, President of Senate

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John Kitzhaber, Governor

Passed by House June 28, 2011

Filed in Office of Secretary of State:

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Bruce Hanna, Speaker of House

.....M.,....., 2011

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Arnie Roblan, Speaker of House

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Kate Brown, Secretary of State