

DRAFT

SUMMARY

Imposes prohibitions, restrictions and requirements regarding clearcutting and other forest operations near forest waters.

Reduces share of revenue from timber harvest privilege tax appropriated to Oregon Forest Resources Institute Fund. Appropriates share of revenue from timber harvest privilege tax to State Forestry Department for administration and enforcement regarding clearcutting and other forest operations near forest waters and for infrastructure or other projects to protect forest waters.

Refers Act to people for their approval or rejection at next regular general election.

A BILL FOR AN ACT

Relating to forests; creating new provisions; amending ORS 321.017, 526.009 and 527.672; and providing that this Act shall be referred to the people for their approval or rejection.

Whereas a majority of Oregonians get their drinking water from waters originating in Oregon's forests, as more than 75 percent of Oregon's municipal water supplies are sourced from public and private forestlands; and

Whereas Oregon has failed to keep pace with neighboring states and federal forest agencies in its protections of forest waters; and

Whereas Oregon law allows more intensive logging closer to rivers, streams, lakes and wetlands than neighboring states, which erodes banks, muddies waters, removes shade, raises water temperatures and depletes water supplies; and

Whereas Oregon law allows the aerial application of toxic pesticides across broader areas of forest watersheds than neighboring states and federal

forest agencies, which affects forest waters and endangers the health of residents in frontline communities throughout rural Oregon; and

Whereas Oregon law allows more intensive logging in landslide hazard locations than neighboring states, which increases sediment and debris in forest waters and the costly treatment of drinking water for Oregonians; and

Whereas plantation-style industrial management of forestlands, which results in dense rows of even-aged trees, has increased the risk of larger and hotter forest fires that damage fragile watersheds and reduce forest water storage; and

Whereas better and more up-to-date forest management and harvest practices will help to reduce the risk of severe forest fires by increasing the expanse of fire-resistant older trees that act as natural fire breaks adjacent to forest waters; and

Whereas a special exemption in Oregon law allows conflicts of interest in setting and enforcing timber policies by the State Board of Forestry and subsidiary committees that otherwise would be prohibited under state ethics laws; and

Whereas a warming climate and more volatile weather patterns necessitate stronger practices to protect Oregon drinking water supplies and maintain healthy forests across the state; and

Whereas clean and protected forest waters are vital to Oregon families and communities for use in the home and for recreation, tourism and businesses in every sector of our economy; and

Whereas the people of Oregon find it necessary to update and improve Oregon laws to better protect health and safety and to promote Oregon's economic well-being by protecting and preserving Oregon's forest waters; now, therefore,

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

SECTION 1. As used in this section and sections 2 to 14 of this 2020 Act:

(1) "Actual conflict of interest" has the meaning given that term

1 in ORS 244.020.

2 (2) “Aerial application of pesticides” means the spraying or any
3 other application of pesticide by aircraft.

4 (3) “Aerial pesticide applicator” means a person certified under ORS
5 634.128.

6 (4) “Clearcut logging”:

7 (a) Means a Harvest type 1, Harvest type 2 or Harvest type 3 oper-
8 ation, as those terms are defined in ORS 527.620.

9 (b) Does not mean firewood cutting or timber milling for personal
10 use.

11 (5) “Common ownership” means:

12 (a) Direct ownership by one or more individuals;

13 (b) Ownership by a corporation, partnership or association; or

14 (c) Ownership by an entity in which one or more individuals or an
15 affiliated corporation, partnership, association or other entity owns
16 an interest.

17 (6) “Common School Forest Lands” means forest parcels managed
18 by the State Land Board that were granted to the state by the federal
19 government when Oregon obtained statehood.

20 (7) “Emergency” means an actual or imminent threat of catastro-
21 phe, disaster or unforeseen condition or circumstance that causes or
22 threatens to cause widespread loss of life or injury to person or prop-
23 erty.

24 (8) “Fishbearing stream” means a stream:

25 (a) Inhabited at any time of the year by:

26 (A) Anadromous or game fish species;

27 (B) Fish that are identified on any lists that are adopted, by rule,
28 by the State Fish and Wildlife Commission; or

29 (C) Fish that are listed under the federal Endangered Species Act
30 of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended; or

31 (b) That contains fish habitat accessible to fish species described in

1 paragraph (a) of this subsection.

2 (9) "Forest operation" means any commercial activity relating to
3 the growing or harvesting of a forest tree species as defined in ORS
4 527.620.

5 (10) "Forest waters" means any waters of this state, as defined in
6 ORS 536.007, on forestland.

7 (11) "Large stream" means a stream with an average annual flow
8 of 10 cubic feet per second or greater.

9 (12) "Medium stream" means a stream with an average annual flow
10 greater than 2 and less than 10 cubic feet per second.

11 (13) "Perennial stream" means:

12 (a) Flowing water that does not go dry at any time during a year
13 having normal rainfall; or

14 (b) Intermittently dry portions of a perennial channel below the
15 uppermost point of perennial flow.

16 (14) "Pesticide" has the meaning given that term in ORS 634.006.

17 (15) "Pesticide operator" has the meaning given that term in ORS
18 634.006.

19 (16) "Public official" has the meaning given that term in ORS
20 244.020.

21 (17) "Small tract forestland" means forestland that:

22 (a) Is subject to assessment under ORS 321.700 to 321.754 and from
23 which the harvesting of timber is subject to severance taxation under
24 ORS 321.700 to 321.754;

25 (b) Has an owner that owns or holds common ownership in at least
26 10 acres of Oregon forestland but less than 5,000 acres of Oregon
27 forestland; and

28 (c) Constitutes all forestland within a single tax lot and all
29 forestland within contiguous parcels owned or held in common own-
30 ership by the owner.

31 (18) "Stream":

1 (a) Means the following parts of a river, creek or other channel that
2 carries flowing surface water during part of the year:

3 (A) The water and any vegetation, aquatic life or habitats in the
4 water;

5 (B) Beds and banks below the high-water level capable of containing
6 water, whether or not water is actually present;

7 (C) The area between the high-water level of connected side chan-
8 nels;

9 (D) Beaver ponds, oxbows and side channels, if connected by surface
10 flow to the stream during a portion of the year;

11 (E) Stream-associated wetlands; and

12 (F) The area adjacent to an unconfined stream channel where, ex-
13 cept as modified by a permanent levee or dike, channel location is
14 reasonably expected to shift position on its floodplain through lateral
15 avulsion or erosion during the period of 180 to 500 years, depending on
16 site conditions, required to grow mature forest trees from the sur-
17 rounding area.

18 (b) Does not mean:

19 (A) Ephemeral overland flow;

20 (B) Road drainage systems;

21 (C) Waste treatment lagoons, reservoirs for industrial use, drainage
22 ditches, irrigation ditches, farm ponds, stock ponds, settling ponds,
23 gravel ponds, cooling ponds, log ponds, pump chances or other water
24 bodies developed for human purposes that are not part of a stream;
25 or

26 (D) Heli-ponds that are maintained for the intended use by human
27 activity.

28 (19) "Written plan" has the meaning given that term in ORS 527.620.

29 SECTION 2. (1) The purpose of sections 2 to 14 of this 2020 Act, and
30 the policy of the State of Oregon, is to protect forest waters on pri-
31 vately owned, state owned and local government owned forestlands in

Oregon.

(2) Sections 2 to 14 of this 2020 Act are intended to be interpreted and applied consistently with the purpose and policy stated in subsection (1) of this section. To the extent of any conflict between the purpose or policy stated in subsection (1) of this section and any policy adopted under ORS 527.610 to 527.770, the purpose or policy stated in subsection (1) of this section prevails. To the extent that sections 2 to 14 of this 2020 Act conflict with ORS 527.610 to 527.770, sections 2 to 14 of this 2020 Act prevail over ORS 527.610 to 527.770.

(3) The people of Oregon find and declare that:

(a) Oregon's forest waters are threatened; and

(b) Significant and immediate threats to forest waters are caused by aerial application of pesticides, logging adjacent to forest waters and logging-associated forest operations on high landslide hazard locations.

SECTION 3. (1) Notwithstanding ORS 468B.110 or 527.610 to 527.770, except as provided in subsection (4) of this section and section 4 of this 2020 Act, clearcut logging and associated forest operations are prohibited:

(a) Within 100 feet of fishbearing streams, large streams, medium streams, significant wetlands, wetlands five acres or larger, and streams with domestic water use;

(b) Within 50 feet of perennial streams, lakes and wetlands larger than one half-acre; and

(c) Within 50 feet of small nonfishbearing streams subject to rapidly moving landslides as defined in ORS 195.250.

(2) The existence of a man-made barrier to fish passage is not a basis for withholding classification of a stream as a fishbearing stream.

(3) The distances specified in subsection (1) of this section refer to horizontal distances from the forest waters, applied as exact minimum

1 distances and not as average distances over a unit of stream length.

2 (4) The areas within which clearcut logging and associated forest
3 operations are prohibited in subsection (1) of this section are subject
4 to site-specific limited exceptions as specified in a written plan ap-
5 proved by the State Forester for:

6 (a) Maintenance of existing road crossings and unavoidable yarding
7 corridors to the minimum size necessary, if an additional contiguous
8 riparian area equal in size to the road crossing or yarding corridor
9 remains unharvested and the area impacted by the maintenance is
10 rehabilitated to the maximum extent practicable;

11 (b) Thinning of small, undercanopy vegetation in a stand, if the best
12 available information demonstrates the thinning to be necessary and
13 effective to mitigate the risk of fire within the defensible space of
14 dwellings, public buildings or critical built infrastructure, or to allow
15 the safe use of prescribed burning as a forest restoration tool on dry
16 forest types;

17 (c) Thinning of small, undercanopy vegetation in a stand, if the best
18 available information demonstrates the thinning will enhance the
19 resilience of the riparian area to drought or fire; or

20 (d) Thinning of small, undercanopy vegetation in a stand to restore
21 properly functioning riparian conditions, by means of an operation
22 reviewed and approved by a state-employed specialist in aquatic and
23 riparian functions.

24 (5) The State Forestry Department may increase the size of areas
25 specified in subsection (1) of this section, or specify additional re-
26 strictions on forest operations within areas specified in subsection (1)
27 of this section, to protect the quality or quantity of forest waters as
28 necessary, based on the best available information, significant new
29 information or changing climatic conditions, to:

30 (a) Comply with state water quality standards or the protection
31 goals of ORS 527.610 to 527.770; or

(b) Avoid impacts to threatened and endangered fish or to wildlife species and habitats inventoried as resource sites under ORS 527.710.

SECTION 4. (1) The State Board of Forestry shall adopt rules for clearcut logging adjacent to forest waters on small tract forestland for which 20 percent or more of the total acreage is in an area described in section 3 (1) of this 2020 Act. Section 3 (1) does not apply to small tract forestland on which logging and forest operation activities comply with rules adopted under this section.

(2) In developing rules under this section, the board shall balance the regulatory impact of section 3 of this 2020 Act with the purpose and policy outlined in section 2 of this 2020 Act while minimizing the threat of harm to forest waters.

SECTION 5. (1) Aerial application of pesticides within 500 feet of all forest waters is prohibited. The distance specified in this section refers to the horizontal distance from the forest waters, applied as exact minimum distances and not as average distance over a unit of stream length.

(2) The prohibition established in this section is in addition to, and not in lieu of, any other prohibitions on pesticide application established by law.

SECTION 6. (1) The State Forestry Department shall maintain an electronic reporting and notification system for pesticide operators, timber owners or landowners proposing to conduct a forest operation involving an aerial application of pesticides to forestland.

(2) A pesticide operator, timber owner or landowner must file notice with the State Forester of a forest operation involving an aerial application of pesticides to forestland. Such notice must be filed not less than 14 and not more than 21 business days prior to the proposed date of the application. The notice must include, at a minimum:

(a) The name and business address of the pesticide operator, timber owner, landowner and aerial pesticide applicator;

1 (b) For the pesticide product expected to be used in the aerial ap-
2 plication:

3 (A) The common name or brand name;

4 (B) The name of any carrier substance to be used; and

5 (C) Any registration number issued by the United States Environ-
6 mental Protection Agency, the State Department of Agriculture or any
7 other federal or state administrative agency;

8 (c) The total amount and concentration of the pesticide and any
9 substance used to enhance the effectiveness of the pesticide product
10 expected to be used;

11 (d) The proposed date for the aerial application of pesticides; and

12 (e) A legal description and map for the proposed area for the aerial
13 application of pesticides.

14 (3) Upon receipt of a notice required by subsection (2) of this sec-
15 tion, the State Forestry Department shall send notice to any person
16 who has requested notification of planned pesticide applications, sub-
17 mitted a valid electronic mail address to the department and provided
18 a physical address that is not more than one mile from the proposed
19 site of the aerial application of pesticides.

20 SECTION 7. (1) State Forester approval of a written plan for oper-
21 ation is required prior to logging or other forest operations that are
22 conducted on or may affect a site that, on November 3, 2020, was a site
23 that the State Forester identified as designated in State Board of
24 Forestry rules as being a high landslide hazard location.

25 (2) The State Forester may not approve a written plan for an oper-
26 ation on a site that is a high landslide hazard location unless:

27 (a) The best available information supports a determination that
28 the proposed forest operation will not increase the risk, frequency,
29 magnitude or extent of a landslide that could deliver sediment or de-
30 bris to forest waters; and

31 (b) The State Forester's determination is consistent with the rec-

ommendation of a state-employed geotechnical expert.

(3) The board shall update and complete maps for state and private forestlands every two years to identify all high landslide hazard locations identified by the State Forester under subsection (1) of this section that the State Forester considers capable of delivering sediment or debris to forest waters. The board shall make the maps available to the public.

(4) The State Forester may identify areas containing features that indicate inherent instability where forest operations should be excluded or limited to avoid exacerbating the risk of landslide initiation that could deliver sediment or debris to forest waters. The State Forester shall apply the requirements of subsection (2) of this section to areas identified under this subsection. The board shall include areas identified by the State Forester under this subsection in the maps described in subsection (3) of this section.

SECTION 8. (1) The State Board of Forestry shall adopt rules for carrying out sections 2 to 14 of this 2020 Act in a manner consistent with the purpose, policy and findings in section 2 of this 2020 Act and for carrying out forest practices affecting the quantity and quality of forest waters. The board shall base its rulemaking decisions on the best available information, including but not limited to information related to climate change and the probable negative effects of climate change on the quality and quantity of forest waters and drinking water from forest water sources. ORS 527.714 does not limit board authority to adopt rules for carrying out sections 2 to 14 of this 2020 Act.

(2) When adopting rules under sections 3 and 4 of this 2020 Act, the board shall consult with the Department of Environmental Quality and the Oregon Health Authority. Rules described in this subsection may expand the areas in and methods by which logging is restricted under sections 2 to 14 of this 2020 Act if necessary to protect the quality and quantity of forest waters flowing through forestlands.

1 (3) When adopting rules relating to sections 5 and 6 of this 2020 Act
2 and ORS 527.672, the board shall consult with the State Department
3 of Fish and Wildlife, the Department of Environmental Quality and
4 the Oregon Health Authority. Rules described in this subsection may
5 expand the areas within which the aerial application of pesticides is
6 prohibited if necessary to protect the quality of forest waters.

7 (4) When adopting rules under section 7 of this 2020 Act, the State
8 Forester shall consult with the State Department of Geology and
9 Mineral Industries. Rules described in this subsection may expand the
10 areas in which logging is restricted if necessary to protect the quality
11 of forest waters.

12 SECTION 9. (1) Any action, decision or recommendation by any
13 person acting in a capacity as a public official regarding forest waters
14 or any provision of sections 2 to 14 of this 2020 Act, the effect of which
15 would be to the private pecuniary benefit or detriment of the person
16 or the person's relative or any business with which the person or a
17 relative of the person is associated, is an actual conflict of interest.
18 Except as provided in this subsection, the existence of an actual con-
19 flict of interest under this section is independent of whether the cir-
20 cumstances creating the actual conflict of interest also create a
21 potential conflict of interest under ORS 244.020. Circumstances creat-
22 ing an exemption from a potential conflict of interest under ORS
23 244.020 (13)(b) do not create an actual conflict of interest under this
24 section.

25 (2) Notwithstanding ORS 244.120 (1)(c), a public official having an
26 actual conflict of interest under subsection (1) of this section shall
27 announce publicly the nature of the conflict. After announcing the
28 nature of the actual conflict of interest, the public official may par-
29 ticipate as a public official in any discussion or debate on the issue
30 out of which the conflict arises but may not vote on the issue.

31 SECTION 10. (1) The State Forestry Department shall adopt rules

1 setting forth the requirements and procedures for a written plan for
2 a forest operation under section 3 or 7 of this 2020 Act. The rules
3 must, at a minimum, provide that:

4 (a) A written plan approved by the State Forester must comply with
5 sections 2 to 14 of this 2020 Act and be consistent with the purpose and
6 policy stated in section 2 of this 2020 Act;

7 (b) The State Forester may not approve a written plan until mem-
8 bers of the public and interested persons are provided an opportunity
9 to comment on the plan;

10 (c) Opportunities for comment under paragraph (b) of this sub-
11 section must be for a period that ends not less than 14 calendar days
12 after the public is provided notice of the written plan; and

13 (d) Logging or associated forest operations under a written plan
14 may not begin until the State Forester makes a final decision ap-
15 proving the written plan and:

16 (A) The time for filing a request for hearing under subsection (2)
17 of this section has expired; or

18 (B) A stay of the operation under subsection (3) of this section has
19 expired.

20 (2) Any person who timely provides comments on the written plan
21 may request a hearing within 30 days after issuance of the order ap-
22 proving the written plan.

23 (3) If a request for hearing is filed under subsection (2) of this sec-
24 tion, logging or forest operations under sections 3 or 7 of this 2020 Act
25 for which a written plan is required shall be stayed until the hearing
26 has concluded and an order has been issued and become final by op-
27 eration of law or on appeal.

28 (4) An undertaking may not be required of a person for requesting
29 a hearing under subsection (2) of this section.

30 (5) Attorney fees may not be awarded against a person who re-
31 quested a hearing under subsection (2) of this section or appealed a

1 decision resulting from a hearing, unless there was no objectively
2 reasonable basis for requesting a hearing or appealing the decision.

3 (6) To the extent of any conflict between this section and ORS
4 527.670 or 527.700, this section controls.

5 (7) ORS 527.674 does not apply to rules adopted under this section.

6 **SECTION 11.** For purposes of ORS 195.305, sections 2 to 14 of this
7 2020 Act and rules adopted under sections 2 to 14 of this 2020 Act are
8 not land use regulations that restrict the residential use of private real
9 property or a farming or forest practice. For purposes of ORS 195.305
10 (3)(b), sections 2 to 14 of this 2020 Act and rules adopted under sections
11 2 to 14 of this 2020 Act are activities for the protection of public health
12 and safety.

13 **SECTION 12.** (1) Except as otherwise provided in sections 2 to 14
14 of this 2020 Act, sections 2 to 14 of this 2020 Act apply to all forestlands
15 in Oregon, including but not limited to privately owned, state owned
16 and local government owned forestlands.

17 (2) Sections 2 to 14 of this 2020 Act do not apply to:

18 (a) Federal or tribal forestlands exempt from regulation under
19 sections 2 to 14 of this 2020 Act by federal law; or

20 (b) Common School Forest Lands.

21 **SECTION 13.** Sections 2 to 14 of this 2020 Act do not limit or restrict
22 the administration or enforcement of water quality standards estab-
23 lished by the Environmental Quality Commission or under any other
24 provision of law on federal forestlands, tribal forestlands or Common
25 School Forest Lands, or on watersheds that supply drinking water for
26 municipal and other local water systems, including, but not limited to:

27 (1) The Bull Run Watershed, supplying the City of Portland;

28 (2) The McKenzie River Watershed, supplying the Eugene metro-
29 politan area;

30 (3) The Ashland Creek Watershed, supplying the City of Ashland;

31 (4) The Twin Mountain inventoried roadless area and Marble Point

1 roadless area, serving Baker City;

2 (5) The Tumalo Creek Watershed, supplying the Bend metropolitan
3 area; and

4 (6) The North Santiam Watershed, supplying the City of Salem and
5 surrounding communities.

6 **SECTION 14.** The State Forester may temporarily suspend State
7 Forestry Department administration and enforcement of sections 3, 5
8 to 7 or 10 of this 2020 Act, or any rules adopted under sections 4, 8 or
9 10 of this 2020 Act, to allow response to an emergency posing hazards
10 to public health, safety or property, including but not limited to al-
11 lowing firefighting response. A suspension under this section may not
12 exceed 60 calendar days unless renewed with a subsequent finding of
13 necessity by the State Forester. For each suspension and renewal of
14 suspension under to this section, the State Forester shall provide a
15 post-incident report to the State Board of Forestry and post the report
16 on the department website. The report must detail the reasons for,
17 and effectiveness of, the suspension and the effect of the suspension
18 on affected forest waters.

19 **SECTION 15.** (1) As used in this section, “clearcut logging” and
20 “forest waters” have the meanings given those terms in section 1 of
21 this 2020 Act.

22 (2) At least once each biennium, the Secretary of State shall con-
23 duct financial and performance audits regarding the effectiveness of
24 sections 2 to 14 of this 2020 Act in protecting forest waters. The audits
25 shall include:

26 (a) An analysis of the condition of forest waters based on the best
27 available information, including trends in improvements or deteri-
28 oration in the quantity and quality of forest waters. This analysis
29 shall include consideration of the expected impacts on forest waters
30 from climate change.

31 (b) An analysis of the collection of revenue made available under

1 **ORS 321.017 for use by the State Forestry Department, and the out-**
2 **comes of the use of that revenue.**

3 **(c) A survey of California, Idaho and Washington statutory and**
4 **administrative rule protections of waters on forestlands in those**
5 **states.**

6 **(d) A report on enforcement actions and rates of compliance with**
7 **the provisions of sections 2 to 14 of this 2020 Act.**

8 **(e) A presentation of the best available information regarding:**

9 **(A) Reductions in water quality and quantity resulting from the**
10 **cumulative impact of clearcut logging on forest waters; and**

11 **(B) Increases in fire severity and fire intensity in forestlands re-**
12 **planted following clearcut logging.**

13 **(f) Recommendations for amendments to modify or improve**
14 **sections 2 to 14 of this 2020 Act consistent with the purpose and policy**
15 **stated in section 2 of this 2020 Act. The recommendations may include,**
16 **but need not be limited to, recommendations for the appropriation of**
17 **additional funds necessary for achieving the purpose and policy of**
18 **sections 2 to 14 of this 2020 Act.**

19 **(3) The audits described in subsection (2) of this section shall be**
20 **conducted pursuant to the provisions of ORS chapter 297. However,**
21 **if any provision of sections 2 to 14 of this 2020 Act conflict with ORS**
22 **chapter 297, the provisions of sections 2 to 14 of this 2020 Act control.**

23 **(4) The Secretary of State shall, at a minimum:**

24 **(a) Deliver the audit results to the State Board of Forestry and the**
25 **Environmental Quality Commission;**

26 **(b) Make the audit results publicly available on behalf of the resi-**
27 **dents of Oregon through news media; and**

28 **(c) Post the audit results on the Secretary of State's website.**

29 **(5) The Secretary of State shall monitor and report annually on**
30 **agency progress in implementing recommendations made in the au-**
31 **dits. The secretary shall follow up on recommendations as part of re-**

curren audit work or as an activity separate from other audit activity.
When following up on recommendations, the secretary may request
that the appropriate agency provide evidence of implementation.

SECTION 16. ORS 321.017 is amended to read:

321.017. (1) In addition to the taxes levied under ORS 321.015 (1) to (4), there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on forestlands in the amount provided in subsection (2) of this section.

(2) The rate of tax levied in subsection (1) of this section shall be established annually at the beginning of each calendar year by the board of directors of the Oregon Forest Resources Institute, at a rate not to exceed 75 cents per thousand feet, board measure, adjusted annually for inflation since 1991 based on the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) The tax shall be measured by and be applicable to each per thousand feet, board measure, and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (5) and (6).

(4) The tax levied by subsection (1) of this section shall be due and payable to the Department of Revenue in the manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.185.

(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After payment of refunds, which shall be paid in the same manner as other forest products harvest tax refunds are paid in ORS 321.145 (2)[,]:

(a) One-third of the balance of the additional tax [imposed] levied under subsection (1) of this section shall be deposited in the Oregon Forest Resources Institute Fund[.];

(b) One-third of the balance of the additional tax levied under sub-

section (1) of this section shall be deposited to the State Forestry Department Account and used for the purposes of administering and enforcing sections 2 to 14 of this 2020 Act and for providing technical assistance;

(c) One-third of the balance of the additional tax levied under subsection (1) of this section shall be deposited to the State Forestry Department Account and used for the purpose of protecting forest waters by supporting measures for reducing or eliminating hazards to:

(A) Critical built infrastructure; or

(B) Homes and public buildings in wildfire hazard zones identified by the State Forestry Department that rely on forest waters as their drinking water source.

(6) Measures referred to in subsection (5)(c) of this section may include, but need not be limited to, the provision of information, technical assistance and financial assistance by the department for property owners and residents in wildfire hazard zones beyond what is otherwise required under the state building code or Department of Consumer and Business Services rules to mitigate wildfire hazard.

(7) The moneys made available for department use under subsection (5)(b) and (c) of this section are in addition to, and not in lieu of, any other moneys appropriated or otherwise made available to the department.

SECTION 17. ORS 526.009 is amended to read:

526.009. (1) There is created a State Board of Forestry consisting of seven members appointed by the Governor. The members appointed to the board shall be subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. The Governor shall designate one member of the board as chairperson to hold that position until that member's term expires or until relieved by the Governor as provided in subsection [(6)] (8) of this section. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2) The term of office of a member of the board is four years. A member shall be eligible for reappointment, but no member shall serve more than two consecutive full terms. In case of a vacancy for any cause, the Governor shall make an appointment as provided in subsection (1) of this section.

(3) Appointments made by the Governor under subsection (1) of this section shall include appointment of at least one member from each of the forest regions established under ORS 527.640 and the rules adopted thereunder by January 1, 1987.

(4) No more than three members of the board may derive any significant portion of their income directly from persons or organizations that are subject to regulation under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

(5) A member of the board who derives any significant portion of their income directly from persons or organizations that are subject to regulation under ORS 527.610 to 527.770 has an actual conflict of interest regarding any action, decision or recommendation as a member of the board regarding forest waters or any provision of sections 2 to 14 of this 2020 Act.

(6) A member of the board having an actual conflict of interest under subsection (5) of this section shall announce publicly the nature of the conflict. After announcing the nature of the actual conflict of interest, the member may participate as a public official in any discussion or debate on the issue out of which the conflict arises but may not vote on the issue.

[(5)] (7) Except as provided in subsection (4) of this section, no member of the board shall have any relationship or pecuniary interest that would interfere with the member representing the public interest.

[(6)] (8) The Governor may at any time remove any member of the board for inefficiency, incompetence, neglect of duty, malfeasance in office, unfitness to render effective service or failure to continue to meet the criteria of appointment pursuant to this section.

SECTION 18. ORS 527.672 is amended to read:

1 527.672. When a forest operation involves applying [*herbicides*] **pesticides**
2 by aircraft near an inhabited dwelling or school, the operator [*is responsible*
3 *for leaving an unsprayed strip of at least 60*] **may not spray the area within**
4 **500** feet adjacent to the dwelling or school. The [*responsibility of the operator*
5 *under*] **prohibition imposed by** this section is in addition to any responsi-
6 bility of the aerial pesticide applicator **imposed** under ORS chapter 634 **or**
7 **sections 5 or 6 of this 2020 Act.**

8 **SECTION 19.** No later than January 1, 2022, the Department of
9 **Consumer and Business Services shall adopt rules to ensure and pro-**
10 **tect the health and safety of persons who perform or have contact**
11 **with pesticides used in any forestland applications. When adopting**
12 **rules under this section, the department shall consult with the De-**
13 **partment of Environmental Quality and the Oregon Health Authority.**
14 **Section 8 (3) of this 2020 Act does not apply to rules adopted under this**
15 **section.**

16 **SECTION 20.** The State Board of Forestry shall make the first map
17 **required under section 7 of this 2020 Act available to the public no**
18 **later than January 1, 2022.**

19 **SECTION 21.** The Secretary of State shall complete and publish the
20 **first audit under section 15 of this 2020 Act no later than December**
21 **31, 2022.**

22 **SECTION 22.** Sections 19, 20 and 21 of this 2020 Act are repealed
23 **January 2, 2024.**

24 **SECTION 23.** Sections 1 to 15 and 19 to 22 of this 2020 Act apply to
25 **forest operations commenced on or after the effective date of this 2020**
26 **Act.**

27 **SECTION 24.** The amendments to ORS 321.017 by section 16 of this
28 **2020 Act apply to privilege taxes levied on timber harvesting that oc-**
29 **curs on or after the effective date of this 2020 Act.**

30 **SECTION 25.** The amendments to ORS 526.009 by section 17 of this
31 **2020 Act apply to the actions, decisions and recommendations of State**

7 **SECTION 27. This 2020 Act shall be submitted to the people for their**
8 **approval or rejection at the next regular general election held**
9 **throughout this state.**
