

# House Bill 4025

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules for Micha Gross)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

1  
2 Relating to forests; creating new provisions; amending ORS 321.017, 526.009 and 527.672; and pro-  
3 viding that this Act shall be referred to the people for their approval or rejection.

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

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

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

12 Whereas Oregon law allows the aerial application of toxic pesticides across broader areas of  
13 forest watersheds than neighboring states and federal forest agencies, which affects forest waters  
14 and endangers the health of residents in frontline communities throughout rural Oregon; and

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

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

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

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

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

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

8       (1) "Actual conflict of interest" has the meaning given that term in ORS 244.020.

9       (2) "Aerial application of pesticides" means the spraying or any other application of pes-  
10 ticide by aircraft.

11       (3) "Aerial pesticide applicator" means a person certified under ORS 634.128.

12       (4) "Clearcut logging":

13       (a) Means a Harvest type 1, Harvest type 2 or Harvest type 3 operation, as those terms  
14 are defined in ORS 527.620.

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

16       (5) "Common ownership" means:

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

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

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

21       (6) "Common School Forest Lands" means forest parcels managed by the State Land  
22 Board that were granted to the state by the federal government when Oregon obtained  
23 statehood.

24       (7) "Emergency" means an actual or imminent threat of catastrophe, disaster or un-  
25 foreseen condition or circumstance that causes or threatens to cause widespread loss of life  
26 or injury to person or property.

27       (8) "Fishbearing stream" means a stream:

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

29       (A) Anadromous or game fish species;

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

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

34       (b) That contains fish habitat accessible to fish species described in paragraph (a) of this  
35 subsection.

36       (9) "Forest operation" means any commercial activity relating to the growing or har-  
37 vesting of a forest tree species as defined in ORS 527.620.

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

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

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

44       (13) "Perennial stream" means:

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

1 or

2 (b) Intermittently dry portions of a perennial channel below the uppermost point of per-  
3 ennial flow.

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

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

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

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

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

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

12 (c) Constitutes all forestland within a single tax lot and all forestland within contiguous  
13 parcels owned or held in common ownership by the owner.

14 (18) "Stream":

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

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

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

20 (C) The area between the high-water level of connected side channels;

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

23 (E) Stream-associated wetlands; and

24 (F) The area adjacent to an unconfined stream channel where, except as modified by a  
25 permanent levee or dike, channel location is reasonably expected to shift position on its  
26 floodplain through lateral avulsion or erosion during the period of 180 to 500 years, depending  
27 on site conditions, required to grow mature forest trees from the surrounding area.

28 (b) Does not mean:

29 (A) Ephemeral overland flow;

30 (B) Road drainage systems;

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

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

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

37 **SECTION 2.** (1) The purpose of sections 2 to 14 of this 2020 Act, and the policy of the  
38 State of Oregon, is to protect forest waters on privately owned, state owned and local gov-  
39 ernment owned forestlands in Oregon.

40 (2) Sections 2 to 14 of this 2020 Act are intended to be interpreted and applied consist-  
41 ently with the purpose and policy stated in subsection (1) of this section. To the extent of  
42 any conflict between the purpose or policy stated in subsection (1) of this section and any  
43 policy adopted under ORS 527.610 to 527.770, the purpose or policy stated in subsection (1)  
44 of this section prevails. To the extent that sections 2 to 14 of this 2020 Act conflict with ORS  
45 527.610 to 527.770, sections 2 to 14 of this 2020 Act prevail over ORS 527.610 to 527.770.

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

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

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

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

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

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

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

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

16       **(3) The distances specified in subsection (1) of this section refer to horizontal distances**  
17 **from the forest waters, applied as exact minimum distances and not as average distances**  
18 **over a unit of stream length.**

19       **(4) The areas within which clearcut logging and associated forest operations are prohib-**  
20 **ited in subsection (1) of this section are subject to site-specific limited exceptions as specified**  
21 **in a written plan approved by the State Forester for:**

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

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

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

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

36       **(5) The State Forestry Department may increase the size of areas specified in subsection**  
37 **(1) of this section, or specify additional restrictions on forest operations within areas speci-**  
38 **fied in subsection (1) of this section, to protect the quality or quantity of forest waters as**  
39 **necessary, based on the best available information, significant new information or changing**  
40 **climatic conditions, to:**

41       **(a) Comply with state water quality standards or the protection goals of ORS 527.610 to**  
42 **527.770; or**

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

45       **SECTION 4. (1) The State Board of Forestry shall adopt rules for clearcut logging adja-**

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

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

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

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

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

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

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

23 (b) For the pesticide product expected to be used in the aerial application:

24 (A) The common name or brand name;

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

26 (C) Any registration number issued by the United States Environmental Protection  
 27 Agency, the State Department of Agriculture or any other federal or state administrative  
 28 agency;

29 (c) The total amount and concentration of the pesticide and any substance used to en-  
 30 hance the effectiveness of the pesticide product expected to be used;

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

32 (e) A legal description and map for the proposed area for the aerial application of pesti-  
 33 cides.

34 (3) Upon receipt of a notice required by subsection (2) of this section, the State Forestry  
 35 Department shall send notice to any person who has requested notification of planned pes-  
 36 ticide applications, submitted a valid electronic mail address to the department and provided  
 37 a physical address that is not more than one mile from the proposed site of the aerial ap-  
 38 plication of pesticides.

39 **SECTION 7.** (1) State Forester approval of a written plan for operation is required prior  
 40 to logging or other forest operations that are conducted on or may affect a site that, on  
 41 November 3, 2020, was a site that the State Forester identified as designated in State Board  
 42 of Forestry rules as being a high landslide hazard location.

43 (2) The State Forester may not approve a written plan for an operation on a site that is  
 44 a high landslide hazard location unless:

45 (a) The best available information supports a determination that the proposed forest op-

1 eration will not increase the risk, frequency, magnitude or extent of a landslide that could  
2 deliver sediment or debris to forest waters; and

3 (b) The State Forester's determination is consistent with the recommendation of a  
4 state-employed geotechnical expert.

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

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

15 **SECTION 8.** (1) The State Board of Forestry shall adopt rules for carrying out sections  
16 2 to 14 of this 2020 Act in a manner consistent with the purpose, policy and findings in sec-  
17 tion 2 of this 2020 Act and for carrying out forest practices affecting the quantity and quality  
18 of forest waters. The board shall base its rulemaking decisions on the best available infor-  
19 mation, including but not limited to information related to climate change and the probable  
20 negative effects of climate change on the quality and quantity of forest waters and drinking  
21 water from forest water sources. ORS 527.714 does not limit board authority to adopt rules  
22 for carrying out sections 2 to 14 of this 2020 Act.

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

28 (3) When adopting rules relating to sections 5 and 6 of this 2020 Act and ORS 527.672, the  
29 board shall consult with the State Department of Fish and Wildlife, the Department of En-  
30 vironmental Quality and the Oregon Health Authority. Rules described in this subsection  
31 may expand the areas within which the aerial application of pesticides is prohibited if nec-  
32 essary to protect the quality of forest waters.

33 (4) When adopting rules under section 7 of this 2020 Act, the State Forester shall consult  
34 with the State Department of Geology and Mineral Industries. Rules described in this sub-  
35 section may expand the areas in which logging is restricted if necessary to protect the  
36 quality of forest waters.

37 **SECTION 9.** (1) Any action, decision or recommendation by any person acting in a ca-  
38 pacity as a public official regarding forest waters or any provision of sections 2 to 14 of this  
39 2020 Act, the effect of which would be to the private pecuniary benefit or detriment of the  
40 person or the person's relative or any business with which the person or a relative of the  
41 person is associated, is an actual conflict of interest. Except as provided in this subsection,  
42 the existence of an actual conflict of interest under this section is independent of whether  
43 the circumstances creating the actual conflict of interest also create a potential conflict of  
44 interest under ORS 244.020. Circumstances creating an exemption from a potential conflict  
45 of interest under ORS 244.020 (13)(b) do not create an actual conflict of interest under this

1 section.

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

7 **SECTION 10.** (1) The State Forestry Department shall adopt rules setting forth the re-  
 8 quirements and procedures for a written plan for a forest operation under section 3 or 7 of  
 9 this 2020 Act. The rules must, at a minimum, provide that:

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

13 (b) The State Forester may not approve a written plan until members of the public and  
 14 interested persons are provided an opportunity to comment on the plan;

15 (c) Opportunities for comment under paragraph (b) of this subsection must be for a pe-  
 16 riod that ends not less than 14 calendar days after the public is provided notice of the written  
 17 plan; and

18 (d) Logging or associated forest operations under a written plan may not begin until the  
 19 State Forester makes a final decision approving the written plan and:

20 (A) The time for filing a request for hearing under subsection (2) of this section has ex-  
 21 pired; or

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

23 (2) Any person who timely provides comments on the written plan may request a hearing  
 24 within 30 days after issuance of the order approving the written plan.

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

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

31 (5) Attorney fees may not be awarded against a person who requested a hearing under  
 32 subsection (2) of this section or appealed a decision resulting from a hearing, unless there  
 33 was no objectively reasonable basis for requesting a hearing or appealing the decision.

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

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

37 **SECTION 11.** For purposes of ORS 195.305, sections 2 to 14 of this 2020 Act and rules  
 38 adopted under sections 2 to 14 of this 2020 Act are not land use regulations that restrict the  
 39 residential use of private real property or a farming or forest practice. For purposes of ORS  
 40 195.305 (3)(b), sections 2 to 14 of this 2020 Act and rules adopted under sections 2 to 14 of this  
 41 2020 Act are activities for the protection of public health and safety.

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

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

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

3 (b) Common School Forest Lands.

4 **SECTION 13.** Sections 2 to 14 of this 2020 Act do not limit or restrict the administration  
5 or enforcement of water quality standards established by the Environmental Quality Com-  
6 mission or under any other provision of law on federal forestlands, tribal forestlands or  
7 Common School Forest Lands, or on watersheds that supply drinking water for municipal  
8 and other local water systems, including, but not limited to:

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

10 (2) The McKenzie River Watershed, supplying the Eugene metropolitan area;

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

12 (4) The Twin Mountain inventoried roadless area and Marble Point roadless area, serving  
13 Baker City;

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

15 (6) The North Santiam Watershed, supplying the City of Salem and surrounding com-  
16 munities.

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

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

29 (2) At least once each biennium, the Secretary of State shall conduct financial and per-  
30 formance audits regarding the effectiveness of sections 2 to 14 of this 2020 Act in protecting  
31 forest waters. The audits shall include:

32 (a) An analysis of the condition of forest waters based on the best available information,  
33 including trends in improvements or deterioration in the quantity and quality of forest wa-  
34 ters. This analysis shall include consideration of the expected impacts on forest waters from  
35 climate change.

36 (b) An analysis of the collection of revenue made available under ORS 321.017 for use by  
37 the State Forestry Department, and the outcomes of the use of that revenue.

38 (c) A survey of California, Idaho and Washington statutory and administrative rule pro-  
39 tections of waters on forestlands in those states.

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

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

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

45 (B) Increases in fire severity and fire intensity in forestlands replanted following clearcut

1 logging.

2 (f) Recommendations for amendments to modify or improve sections 2 to 14 of this 2020  
 3 Act consistent with the purpose and policy stated in section 2 of this 2020 Act. The recom-  
 4 mendations may include, but need not be limited to, recommendations for the appropriation  
 5 of additional funds necessary for achieving the purpose and policy of sections 2 to 14 of this  
 6 2020 Act.

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

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

11 (a) Deliver the audit results to the State Board of Forestry and the Environmental  
 12 Quality Commission;

13 (b) Make the audit results publicly available on behalf of the residents of Oregon through  
 14 news media; and

15 (c) Post the audit results on the Secretary of State’s website.

16 (5) The Secretary of State shall monitor and report annually on agency progress in im-  
 17 plementing recommendations made in the audits. The secretary shall follow up on recom-  
 18 mendations as part of recurring audit work or as an activity separate from other audit  
 19 activity. When following up on recommendations, the secretary may request that the ap-  
 20 propriate agency provide evidence of implementation.

21 **SECTION 16.** ORS 321.017 is amended to read:

22 321.017. (1) In addition to the taxes levied under ORS 321.015 (1) to (4), there hereby is levied  
 23 a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on  
 24 forestlands in the amount provided in subsection (2) of this section.

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

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

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

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

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

42 (b) **One-third of the balance of the additional tax levied under subsection (1) of this sec-**  
 43 **tion shall be deposited to the State Forestry Department Account and used for the purposes**  
 44 **of administering and enforcing sections 2 to 14 of this 2020 Act and for providing technical**  
 45 **assistance;**

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

4 (A) **Critical built infrastructure; or**

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

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

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

15 **SECTION 17.** ORS 526.009 is amended to read:

16 526.009. (1) There is created a State Board of Forestry consisting of seven members appointed  
 17 by the Governor. The members appointed to the board shall be subject to confirmation by the Senate  
 18 as provided in ORS 171.562 and 171.565. The Governor shall designate one member of the board as  
 19 chairperson to hold that position until that member's term expires or until relieved by the Governor  
 20 as provided in subsection [(6)] (8) of this section. The chairperson shall have such powers and duties  
 21 as are provided by the rules of the board.

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

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

29 (4) No more than three members of the board may derive any significant portion of their income  
 30 directly from persons or organizations that are subject to regulation under ORS 527.610 to 527.770,  
 31 527.990 (1) and 527.992.

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

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

41 [(5)] (7) Except as provided in subsection (4) of this section, no member of the board shall have  
 42 any relationship or pecuniary interest that would interfere with the member representing the public  
 43 interest.

44 [(6)] (8) The Governor may at any time remove any member of the board for inefficiency, in-  
 45 competence, neglect of duty, malfeasance in office, unfitness to render effective service or failure to

1 continue to meet the criteria of appointment pursuant to this section.

2 **SECTION 18.** ORS 527.672 is amended to read:

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

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

14 **SECTION 20.** The State Board of Forestry shall make the first map required under sec-  
 15 tion 7 of this 2020 Act available to the public no later than January 1, 2022.

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

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

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

21 **SECTION 24.** The amendments to ORS 321.017 by section 16 of this 2020 Act apply to  
 22 privilege taxes levied on timber harvesting that occurs on or after the effective date of this  
 23 2020 Act.

24 **SECTION 25.** The amendments to ORS 526.009 by section 17 of this 2020 Act apply to the  
 25 actions, decisions and recommendations of State Board of Forestry members made on or  
 26 after the effective date of this 2020 Act and to board discussions, debate and votes occurring  
 27 on or after the effective date of this 2020 Act.

28 **SECTION 26.** The amendments to ORS 527.672 by section 18 of this 2020 Act apply to ae-  
 29 rial applications of pesticides made on or after the effective date of this 2020 Act.

30 **SECTION 27.** This 2020 Act shall be submitted to the people for their approval or re-  
 31 jection at the next regular general election held throughout this state.

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