

Enrolled
Senate Bill 1546

Sponsored by Senator BEYER, Representatives HELM, SMITH DB; Senators ARMITAGE, FREDERICK, KENNEMER, Representatives CAMPOS, DEXTER, HUDSON, MCLAIN, NELSON, NOSSE, POWER, REARDON, REYNOLDS, SCHARF, WILLIAMS, WITT, WRIGHT (at the request of members of the State Land Board) (Pre-session filed.)

CHAPTER

AN ACT

Relating to Elliott State Research Forest; creating new provisions; amending ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520; and prescribing an effective date.

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

ELLIOTT STATE RESEARCH FOREST

SECTION 1. As used in sections 1 to 21 of this 2022 Act, “forest management plan” means a forest management plan that:

- (1) Furthers the mission and management policies described in section 2 of this 2022 Act.
- (2) Includes a cover map, basic forest stand description data, treatment opportunities, management objectives and a schedule for implementing the forest management plan.

SECTION 2. (1) The Elliott State Research Forest shall consist of lands determined by a resolution of the State Land Board, as modified by any subsequent expansion or exchange of lands authorized by section 14 of this 2022 Act.

(2) The mission of establishing the Elliott State Research Forest is to create an enduring, publicly owned, world-class research forest that:

(a) Advances and supports forest health, climate resilience, carbon sequestration, biodiversity, recovery of imperiled species, water quality and quantity, recreational opportunities and local economies.

(b) Is managed to promote collaboration, partnerships, inclusive public processes and equity, consistent with:

- (A) Sections 1 to 21 of this 2022 Act;
- (B) The applicable habitat conservation plan approved pursuant to the Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 to 1544);
- (C) A forest management plan approved by the State Land Board; and
- (D) The applicable version of Oregon State University’s Elliott State Research Forest Proposal described in section 4 of this 2022 Act.

(3) The management policies for the forest are to:

(a) Further the mission described in subsection (2) of this section.

(b) Support scientific inquiry by Oregon State University or the entity contracted to implement forest management operations as described in section 7 (1)(a) of this 2022 Act.

(c) Allow public access for recreational and educational purposes that is compatible with scientific and conservation purposes and the mission and management policies described in this section.

(d) Advance long-term, operational-scale research, in partnership with the university, on issues including forest management practices, ecosystem function, biodiversity, habitat conservation, water quality and quantity, carbon sequestration, rural livelihoods and the resilience of forests to the impacts of climate change.

(e) Support rural economies through active forest management, timber harvest, recreation and research.

(f) Promote opportunities at all education levels to interact with the forest and advance public understanding of the ecological, economic and social benefits of healthy forest ecosystems.

(g) Seek active partnerships with tribal governments to:

(A) Research and demonstrate traditional and contemporary tribal cultural practices and ecological knowledge related to forest management.

(B) Provide opportunities for tribal governments and tribal members to harvest traditional forest products and engage in traditional tribal cultural practices related to the forest.

(C) Consult on potential impacts on natural, cultural and traditional resources in the forest.

(h) Maintain a financially self-sufficient forest management entity capable of operating and overseeing the forest and necessary infrastructure.

(i) Prioritize collaborative partnerships that recognize both the local and statewide values the forest provides.

(j) Maintain a high level of public accountability and transparency in forest management decisions and operations.

(k) Advance equity and inclusion in all aspects of forest management and operations.

(4) The Elliott State Research Forest Authority shall administer the forest.

SECTION 3. Notwithstanding the operative date specified in section 31 (1)(a) of this 2022 Act, the State Land Board shall first determine the lands constituting the Elliott State Research Forest by resolution, as described in section 2 (1) of this 2022 Act, before the operative date specified in section 31 (1)(a) of this 2022 Act.

OREGON STATE UNIVERSITY ELLIOTT STATE RESEARCH FOREST PROPOSAL

SECTION 4. (1) The Legislative Assembly finds and declares that Oregon State University's Elliott State Research Forest Proposal was accepted by the State Land Board in December 2020 and amended in April 2021.

(2) The university:

(a) May, after receiving input and approval from the State Land Board and approval from the board of directors of the Elliott State Research Forest Authority, further amend the proposal described in subsection (1) of this section.

(b) Shall make the current version of the proposal publicly available on a university website.

BOARD OF DIRECTORS OF ELLIOTT STATE RESEARCH FOREST AUTHORITY

SECTION 5. (1) For the purpose of providing for the administration of the Elliott State Research Forest in a manner consistent with the mission and management policies described in section 2 of this 2022 Act, there is created the Elliott State Research Forest Authority, as a state agency independent from the Department of State Lands.

(2) The authority shall be governed by a board of directors consisting of seven or nine voting members and the Dean of the College of Forestry at Oregon State University, who shall be a nonvoting member.

(3) The State Land Board shall:

(a) Appoint the voting members for terms of four years and for not more than two consecutive terms.

(b) Fill any vacancy among the voting members by appointing a voting member to serve the remainder of the unexpired term.

(c) Consult with, and consider input from, the university and the existing board of directors when determining whom to appoint to the board of directors.

(d) Endeavor to appoint members who have a full complement of relevant experience or expertise in subjects related to the mission and management policies and operations of the forest and demonstrated interest in the success of the mission and management policies of the forest.

(4) Members of the board of directors are not entitled to compensation but may receive their actual and necessary travel and other expenses incurred in the performance of their official duties.

SECTION 6. (1) On or before September 1, 2023, the Director of the Department of State Lands, the Elliott State Research Forest Advisory Committee formed by the Department of State Lands and Oregon State University shall develop a list of candidates for appointment as the first voting members of the board of directors of the Elliott State Research Forest Authority.

(2) As soon as practicable after the operative date specified in section 31 (1)(a) of this 2022 Act, the State Land Board shall appoint the first voting members of the board of directors from the list of candidates described in subsection (1) of this section.

(3) Notwithstanding section 5 (3)(a) of this 2022 Act:

(a) Of the voting members first appointed by the State Land Board under subsection (2) of this section:

(A) Two shall serve for a term ending one year after the date of the appointment.

(B) Two shall serve for a term ending two years after the date of the appointment.

(C) Two shall serve for a term ending three years after the date of the appointment.

(b) A voting member serving a term described in this subsection may be appointed to serve two additional consecutive terms.

SECTION 7. (1) The board of directors of the Elliott State Research Forest Authority shall:

(a) Contract with Oregon State University for implementation of forest management operations consistent with the mission and management policies described in section 2 of this 2022 Act and a biennial operations plan, unless implementation of forest management operations is provided for as otherwise agreed to by the State Land Board, the board of directors and the university.

(b) Ensure that the mission and management policies for the Elliott State Research Forest described in section 2 of this 2022 Act are effectively implemented.

(c) Oversee the operational and fiscal integrity of the authority.

(d) Select an executive director of the authority, for which position the board of directors and the university shall work collaboratively to recruit and nominate candidates in a selection process led by the university.

(e) Oversee the activities of, and determine the delegation of responsibilities to, the executive director.

(f) Determine the scope of biennial operations plans.

(g) Provide input, guidance and direction to the executive director concerning implementation of operations and research programs, consistent with the mission and management policies for the forest described in section 2 of this 2022 Act.

(h) Promote transparency and public participation in decision-making by:

(A) Notwithstanding the timeframe for public notice required by ORS 192.640 (1), and subject to the provisions of ORS 192.660, providing public notice as described in ORS 192.640 (1) of the time, location and agendas for a regular meeting of the board of directors at least seven days before the meeting.

(B) Providing at least 24 hours' notice before a special meeting as described in ORS 192.640 (3).

(C) Ensuring that any written materials being considered by the board of directors at a regular meeting are available to the public at least seven days before the meeting.

(D) Providing opportunities for public comment on agenda items requiring action by the board of directors before the board of directors acts on the agenda items.

(E) Ensuring that copies of written public comments are distributed to members of the board of directors before the board of directors acts.

(F) Providing to the State Land Board and the public, 45 days before the board of directors approves or denies a biennial operations plan, written materials related to the biennial operations plan that contain operational details and guidance sufficient to ensure compliance with relevant management direction described in the applicable forest management plan and habitat conservation plan.

(i) After considering public comments described in paragraph (h) of this subsection, approve or deny:

(A) Annual budgets.

(B) Biennial operations reports.

(C) Biennial operations plans. A biennial operations plan must be consistent with an applicable forest management plan.

(D) Recreation plans. A recreation plan must be consistent with an applicable forest management plan and the mission and management policies described in section 2 of this 2022 Act.

(E) Education plans. An education plan must be consistent with an applicable forest management plan and the mission and management policies described in section 2 of this 2022 Act.

(F) A forest management plan applicable to lands in the forest, and any subsequent amendments to the forest management plan, after receiving input and approval from the State Land Board. The forest management plan or amendments must be consistent with the mission and management policies described in section 2 of this 2022 Act and the applicable version of the university's Elliott State Research Forest Proposal described in section 4 of this 2022 Act.

(G) Any sale of carbon credits or entry into easements or other encumbrances of lands in the forest.

(H) Any expansion or exchange of lands in the forest, after receiving input and approval from the State Land Board.

(I) Any amendments to a habitat conservation plan related to the forest, after receiving input and approval from the State Land Board. The amendments must be consistent with the mission and management policies described in section 2 of this 2022 Act.

(J) Any proposed amendments to the university's Elliott State Research Forest Proposal described in section 4 of this 2022 Act. The amendments must be consistent with the mission and management policies described in section 2 of this 2022 Act.

(K) Any other submission to federal or state agencies that relates to the forest.

(L) Any funding requests made to federal or state agencies or the Legislative Assembly, including any request for issuance of revenue bonds described in section 17 of this 2022 Act or certificates of participation financing described in section 23 of this 2022 Act, or any request related to state-funded debt service.

(j) Submit to the State Land Board biennial programmatic reviews of authority operations that address:

(A) Functions of the authority relating to the mission and management policies for the forest, including the fiscal integrity of the authority and the status of forest operations, research initiatives, tribal partnerships, ties with local and regional economies and ongoing implementation of conservation, recreation and education programs.

(B) Compliance with federal and state regulatory requirements and any policy directives from the executive branch.

(k) Conduct at least six business meetings per year for which public participation is facilitated consistent with paragraph (h) of this subsection.

(L) Promote transparency around decisions concerning the forest, including forums to provide input.

(m) Form advisory bodies or subcommittees as the board of directors deems necessary and appropriate.

(2) As part of a funding request described in subsection (1)(i)(L) of this section, the board of directors may request funding for state-funded debt service. Any moneys requested pursuant to this subsection and appropriated by the Legislative Assembly to pay debt service for state bonds must be held by the State Treasurer pursuant to an agreement entered into by the State Treasurer and the board of directors.

(3) The board of directors constitutes the governing body of the authority for purposes of the public meetings laws set forth in ORS 192.610 to 192.690.

SECTION 8. (1) In the six calendar years following the operative date established in section 31 (1)(a) of this 2022 Act, the board of directors of the Elliott State Research Forest Authority shall submit written annual operations reports to the State Land Board.

(2) The State Land Board shall review the reports.

OVERSIGHT BY STATE LAND BOARD

SECTION 9. The State Land Board shall:

(1) Provide policy guidance to the board of directors of the Elliott State Research Forest Authority at the request of the board of directors or Oregon State University and as deemed necessary and appropriate by the State Land Board.

(2) Review, at scheduled meetings of the board, biennial programmatic reviews submitted by the board of directors.

(3) Provide input on, and approve or deny:

(a) A forest management plan related to the Elliott State Research Forest and any subsequent amendments to the forest management plan.

(b) Any amendments to the habitat conservation plan proposed by the board of directors, prior to submittal to federal or state regulatory agencies.

(c) Any proposed amendments to the university's Elliott State Research Forest Proposal described in section 4 of this 2022 Act.

(d) Any expansion of lands in the forest, or exchange of lands in the forest or timber on the lands, proposed by the board of directors, subject to the requirements of section 14 of this 2022 Act.

EXECUTIVE DIRECTOR OF ELLIOTT STATE RESEARCH FOREST AUTHORITY

SECTION 10. The executive director of the Elliott State Research Forest Authority reports to the board of directors of the authority and shall:

(1) Serve for a term of four years, subject to removal at the discretion of the board of directors.

(2) Receive such salary as is fixed by the board of directors. In addition to the salary, subject to applicable laws regulating travel and other expenses, the executive director shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties.

(3) Manage day-to-day operations of the Elliott State Research Forest consistent with the mission and management policies for the forest described in section 2 of this 2022 Act.

(4) Oversee implementation of approved biennial operations plans.

(5) Collaborate with Oregon State University or the entity contracted to implement forest management operations as described in section 7 (1)(a) of this 2022 Act to ensure that forest operations and research further the mission and management policies for the forest described in section 2 of this 2022 Act.

(6) Hire and supervise authority staff and contractors.

(7) Prepare and submit to the board of directors all documents and plans requiring approval by the board of directors, including the documents and plans described in section 7 (1)(i) of this 2022 Act.

(8) Oversee budget execution, regulatory compliance, contracts or agreements for services or the sale of resources and administration of facilities associated with the authority, if the oversight is delegated to the executive director by the board of directors.

(9) Manage relations with the executive and legislative branches and interested stakeholders and communities.

(10) Work with advisory committees or subcommittees formed by the board of directors.

(11) Ensure that decision-making related to the forest is open and transparent, consistent with state law.

(12) Restrict or prohibit public access to all or a part of the forest for reasonable purposes, subject to direction from the board of directors.

ACTIVITIES OF ELLIOTT STATE RESEARCH FOREST AUTHORITY

SECTION 11. (1) Through the board of directors of the Elliott State Research Forest Authority, the authority may:

(a) Enter into and administer contracts and agreements, and take other actions, as needed to perform functions related to carrying out the mission and management policies described in section 2 of this 2022 Act and the duties described in this section and section 7 of this 2022 Act.

(b) Oversee management of the Elliott State Research Forest that maintains, protects and improves the functioning condition of the forest and furthers the mission and management policies for the forest described in section 2 of this 2022 Act.

(c) Participate in available ecosystem services or forestry carbon programs and markets, or enter into easements, consistent with the management policies described in section 2 of this 2022 Act.

(d) Accept and expend proceeds derived from management of the forest, including proceeds derived from marketing, registering and transfer or sale of forest carbon, ecosystem services, forest products or easements, to:

(A) Support financial obligations of the authority.

(B) Conduct research or undertake other program activities located in the forest.

(C) Create financial reserves to ensure the long-term financial integrity and stability of the authority as a self-supporting entity.

(e) Hold and ensure compliance with permits, certifications and permissions from federal, state and local entities, including a habitat conservation plan and related incidental take permit.

(f) Work and partner with federal, state, tribal, local or private owners of lands surrounding the forest concerning land management, research and consolidation.

(g) Raise funds and advance cross-sector partnerships that further the mission and management policies for the forest described in section 2 of this 2022 Act and support programs related to the forest.

(2) Any contract or agreement entered into by the authority, any forest management activities conducted by the authority either directly or by contract and all other actions taken by the authority must be consistent with the applicable approved biennial operations plan.

(3) The public records laws set forth in ORS 192.311 to 192.478 apply to the authority and the board of directors of the authority.

SECTION 12. Directors, officers and employees of the Elliott State Research Forest Authority may receive their actual and necessary travel and other expenses incurred in the performance of their official duties.

SECTION 13. (1) As used in this section, “materially” means of such a nature as to have influence or effect.

(2) The requirements of ORS 183.310 to 183.497 do not apply to actions of the Elliott State Research Forest Authority or the board of directors of the authority, including the adoption or approval of a document that describes or establishes how the Elliott State Research Forest is managed, such as:

- (a) A forest management plan;
- (b) A biennial operations report;
- (c) A biennial operations plan;
- (d) A habitat conservation plan;

(e) Oregon State University’s Elliott State Research Forest Proposal described in section 4 of this 2022 Act;

- (f) A recreation plan; or
- (g) An education plan.

(3) Notwithstanding subsection (2) of this section, an action of the authority or the board of directors, except for the actions enumerated in subsection (2) of this section, that principally concerns a person’s individual rights may be subject to judicial review as provided in ORS 183.484.

(4) Notwithstanding subsection (2) of this section, the following actions by the authority or the board of directors are subject to judicial review as described in ORS 183.484, 183.486, 183.490, 183.497 and 183.500:

(a) Approval of a forest management plan or amendments to a forest management plan that are materially inconsistent with:

- (A) The mission and management policies described in section 2 of this 2022 Act;
- (B) The applicable version of the university’s Elliott State Research Forest Proposal described in section 4 of this 2022 Act; or
- (C) Any applicable habitat conservation plan.

(b) Approval of a biennial operations plan, recreation plan or education plan that is materially inconsistent with the applicable forest management plan.

(c) Approval of amendments to a habitat conservation plan related to the forest that are materially inconsistent with the mission and management policies described in section 2 of this 2022 Act.

(d) Entry into a contract for undertaking forest operations, or any other action related to undertaking forest operations, that is materially inconsistent with the applicable biennial operations plan.

EXPANSION OR EXCHANGE OF LANDS

SECTION 14. (1) The board of directors of the Elliott State Research Forest Authority may propose to the State Land Board, and the State Land Board may approve, an expansion

of lands in the Elliott State Research Forest, or an exchange of lands in the forest or timber on the lands, that furthers the mission and management policies described in section 2 of this 2022 Act.

(2) Lands in the forest may be exchanged:

(a) Only if the exchange consolidates the forest.

(b) Only for lands of approximately equal aggregate value or a combination of lands and monetary consideration of approximately equal aggregate value.

(3) Timber on lands in the forest may be exchanged only for lands of approximately equal aggregate value.

(4) The authority shall consummate by legal conveyance an expansion or exchange described in this section.

(5) Lands acquired by expansion or exchange shall be part of the forest.

(6) After an expansion or exchange, the State Land Board shall establish by resolution the lands constituting the forest.

ELLIOTT STATE RESEARCH FOREST ACCOUNT

SECTION 15. (1) The Elliott State Research Forest Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(2) The account shall consist of all moneys deposited in the account or otherwise transferred to the account. Moneys in the account may be invested as provided in ORS 293.701 to 293.857. Moneys in the account are continuously appropriated to the Elliott State Research Forest Authority for carrying out sections 1 to 21 of this 2022 Act, under the supervision and direction of the State Land Board.

(3) Moneys generated from owning or operating the Elliott State Research Forest, including from any sale of forest products, carbon or ecosystem services or credits or easement, and any other revenues related to the forest, shall be deposited in the account.

(4) The authority may receive gifts, grants, bequests, endowments and donations of moneys, labor or materials from public and private sources for the purpose of contributing to the management and enhancement of the Elliott State Research Forest, including activities such as recreation, education, interpretation, research and monitoring, cultural resources management and habitat improvement.

(5) The authority may apply for, accept and utilize grants from any source, including federal, state or local governments or a private entity, to further the mission and management policies described in section 2 of this 2022 Act.

(6) The authority shall deposit moneys received under subsection (4) or (5) of this section in the account. The authority may expend moneys, materials or labor received under subsection (4) or (5) of this section only for purposes specified in the gift, grant, bequest, endowment or donation. If no purpose is specified, the authority may use the moneys, materials or labor for the management and enhancement of the forest, consistent with the mission and management policies described in section 2 of this 2022 Act.

(7) The authority shall keep a record of all moneys deposited in the account or otherwise transferred to the account. The record shall indicate the sources of moneys and the individual activity or program against which each withdrawal from the account is charged.

REVENUE BONDING

SECTION 16. (1) As used in this section, “bond-related cost” means:

(a) The costs and expenses of issuing, administering and maintaining bonds and the applicable bond program, including paying or redeeming bonds, paying amounts due in connection with credit enhancements or any instruments authorized by ORS 286A.120 and paying

the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the department for the bonds or applicable program.

(b) The costs of funding any bond reserves.

(c) Capitalized interest, if any, for bonds.

(d) Rebates or penalties due to the United States in connection with bonds.

(e) Any other costs or expenses that the State Treasurer or the director of the department determines are necessary or desirable in connection with issuing bonds or maintaining the applicable bond program.

(2) In compliance with the applicable provisions of ORS chapter 286A, the board of directors of the Elliott State Research Forest Authority may request the State Treasurer to issue the revenue bonds described in section 17 of this 2022 Act for capital costs related to owning, operating or administering the Elliott State Research Forest and to sell revenue bonds under section 17 of this 2022 Act in the manner the State Treasurer deems advisable.

(3) The net proceeds derived from the sale of the revenue bonds, after the payment of principal and of the interest and premium, if any, on outstanding revenue bonds, and of any other bond-related costs, shall be paid into the State Treasury and credited to the Elliott State Research Forest Account to be used exclusively for purposes related to owning, operating or administering the forest.

(4) The board of directors may establish one or more subaccounts, as it determines are desirable for administration of the net proceeds, in the Elliott State Research Forest Account.

SECTION 17. (1) The board of directors of the Elliott State Research Forest Authority may request the State Treasurer to sell revenue bonds of the State of Oregon, to be known as Elliott State Research Forest development revenue bonds, in an amount authorized under ORS 286A.035.

(2) The bonds shall not constitute a general obligation of the state, nor be a lien on any lands in the Elliott State Research Forest.

(3) Revenue bonds issued under this section may be secured only by moneys in the Elliott State Research Forest Account established by section 15 of this 2022 Act.

(4) The bonds shall bear interest at a rate to be determined by the State Treasurer.

SECTION 18. Revenue bonds issued under section 17 of this 2022 Act may be refunded as provided under ORS chapter 286A.

SECTION 19. (1) Before revenue bonds are issued under section 17 of this 2022 Act, the board of directors of the Elliott State Research Forest Authority must prepare a revenue declaration or indenture authorizing issuance of the bonds. The revenue declaration or indenture must be signed by a designated representative of the board of directors and approved by the State Treasurer or a person designated by the State Treasurer.

(2) A revenue declaration or indenture prepared under this section may do any of the following:

(a) Pledge any part or all of the moneys described in section 17 of this 2022 Act for purposes of the bonds to be issued.

(b) Limit the purpose for which the proceeds of the sale may be applied by the authority.

(c) Make pledges concerning the proceeds of the sale or moneys described in section 17 of this 2022 Act as necessary to secure payment of bonds of the authority.

(d) Limit or establish terms upon which additional bonds or refunding bonds may be issued under section 17 of this 2022 Act.

(e) Provide for procedures, if any, by which the terms of contracts with bondholders may be amended or rescinded, for the percentage of the bondholders that must consent to amendment or rescission of the contract and for the manner of bondholder consent to any amendment or rescission of the contract.

(f) Establish a trustee and vest the trustee with property, rights, powers and duties in trust as the State Treasurer determines is appropriate.

(g) Provide for other matters affecting the issuance of bonds.

(h) Provide for a debt service reserve pursuant to ORS 286A.025 (6).

(i) Provide for certain covenants pursuant to ORS 286A.025 (4)(c) and 286A.102 (10).

SECTION 20. (1) The Elliott State Research Forest Authority may establish one or more separate reserve accounts within, or separate and distinct from, the Elliott State Research Forest Account in connection with the issuance of revenue bonds issued under section 17 of this 2022 Act.

(2) Moneys held in any account established under this section may be subject to the provisions of any revenue declaration or indenture prepared under section 19 of this 2022 Act.

SECTION 21. (1) A revenue bond issued under section 17 of this 2022 Act:

(a) Must contain on its face a statement that the ad valorem taxing power of the State of Oregon is not pledged to the payment of the principal or the interest on the bond.

(b) Shall be issued as provided in ORS chapter 286A.

(c) Must mature on or before a date determined by calculation of the expected economic life of the improvements, assets and projects financed with the proceeds of the bond.

(2) The State Treasurer shall determine, after consultation with the Elliott State Research Forest Authority, all aspects relating to the sale of bonds under section 17 of this 2022 Act that are not otherwise specifically provided in this section and sections 17, 18, 19 and 20 of this 2022 Act.

NOTE: Section 22 was deleted by amendment. Subsequent sections were not renumbered.

CERTIFICATES OF PARTICIPATION FINANCING

SECTION 23. ORS 283.085 is amended to read:

283.085. As used in ORS 283.085 to 283.092:

(1) "Available funds" means funds appropriated or otherwise made available by the Legislative Assembly to pay amounts due under a financing agreement for the fiscal period in which the payments are due, unexpended proceeds of the financing agreement and reserves or other amounts that have been deposited in trust to pay amounts due under the financing agreement.

(2) "Credit enhancement agreement" means any agreement or contractual relationship between the state and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by ORS 283.085 to 283.092.

(3) "Financing agreement" means a lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement:

(a) To finance real or personal property that is or will be owned and operated by the state or any of its agencies;

(b) To finance infrastructure, including but not limited to telecommunications systems, systems for water, sewage, electricity, steam or natural gas and other equipment or improvements that are necessary or appropriate to support a facility that is, or will be, owned or operated by the state;

(c) To finance infrastructure components that are, or will be, owned or operated by a local government agency of this state if the Director of the Oregon Department of Administrative Services determines that financing the infrastructure facilitates the construction or operation of an adult or juvenile corrections facility or a public safety training facility owned or operated by the state or any of its agencies;

(d) To finance all or a portion of the state's pension liabilities for retirement, health care or disability benefits, in an amount that produces net proceeds that do not exceed the State Treasurer's estimate of those liabilities based on information provided to the State Treasurer by the Public Employees Retirement System;

(e) To finance:

(A) The release of all or a portion of the Elliott State Forest from restrictions resulting from ownership of that forest by the Common School Fund; or

(B) Compensation paid to the Common School Fund for the preservation of noneconomic benefits of the forest through the imposition, transfer or sale of restrictions such as easements, use requirements or other methods that preserve noneconomic benefits of the forest for the public, including recreation, aesthetics, wildlife or habitat preservation or other environmental and quality of life considerations; [or]

(f) To finance capital projects or purchases related to owning, operating or administering the Elliott State Research Forest; or

[(f)] **(g)** To refinance previously executed financing agreements.

(4) "Financing costs" means costs or expenses that the director determines are necessary or desirable in connection with entering into financing agreements and maintaining the certificate of participation program, including but not limited to payment of:

(a) Amounts due under financing agreements;

(b) Costs and obligations the director or any other agency of the state incurs in connection with the exercise of a power granted by ORS 283.085 to 283.092; and

(c) Amounts due in connection with the investment of proceeds of financing agreements.

(5) "Personal property" means tangible personal property, software and fixtures.

(6) "Property rights" means, with respect to personal property, the rights of a secured party under ORS chapter 79, and, with respect to real property, the rights of a trustee or lender under a lease authorized by ORS 283.089 (1)(e).

(7) "Software" means software and training and maintenance contracts related to the operation of computing equipment.

DECOUPLING ELLIOTT STATE FOREST

SECTION 24. ORS 530.450 is added to and made a part of sections 1 to 21 of this 2022 Act.

SECTION 25. ORS 530.450 is amended to read:

530.450. Any lands in the national forests on February 25, 1913, selected by, and patented to, the State of Oregon, for the purpose of establishing a state forest, hereby are withdrawn from sale except as provided in [ORS 530.510] **section 14 of this 2022 Act.** The state forest **formerly known as the Elliott State Forest** shall be known as the Elliott State **Research Forest and managed as described in sections 1 to 21 of this 2022 Act.**

SECTION 26. ORS 530.480 is amended to read:

530.480. As the Common School Forest Lands are determined as required by ORS 530.450 to 530.520, such lands shall be described by legal subdivision. The State Land Board and the State Board of Forestry, respectively in their regular meetings, shall by separate board resolutions designate and set aside such lands as a part of the Common School Forest Lands; *lands in the Elliott State Forest, as determined by ORS 530.450, shall be similarly described and reserved*. A copy of each board resolution certified by the Director of the Department of State Lands or the State Forester, respectively, together with the description of the lands involved, shall be filed with the Secretary of State, who shall keep such copies and descriptions in conjunction with the auditing records of the State Forestry Department Account.

SECTION 27. ORS 530.490 is amended to read:

530.490. (1) Notwithstanding the provisions of any other law, or authority granted thereunder, after the State Board of Forestry and State Land Board resolutions and legal descriptions are filed with the Secretary of State as required by ORS 530.480, the State Forester hereby shall be authorized, under the supervision of the State Board of Forestry and the regulations of that board, to manage, control and protect the Common School Forest Lands. *[Also, notwithstanding the provisions of any other law, or authority granted thereunder, the State Forester hereby is authorized, under the supervision of the State Board of Forestry and the regulations of that board, to manage, control and*

protect the Elliott State Forest Lands. In each instance] The State Forester shall manage, control and protect such forests and forestlands so as to secure the greatest permanent value of the lands to the whole people of the State of Oregon, particularly for the dedicated purposes of the lands and the common schools to which the resources of the lands are devoted.

(2) Easements on, over and across the Common School Forest Lands [*and the Elliott State Forest Lands*] may be granted as follows:

(a) Permanent easements determined by the State Forester and State Board of Forestry as necessary to accomplish the dedicated purposes of such lands may be granted by the Department of State Lands.

(b) Easements other than permanent may be granted by the State Forester under joint rules of the State Board of Forestry and Department of State Lands.

(3) The authority granted the State Forester in this section shall not supersede the authority of the Department of State Lands to grant easements on or leases for the Common School Forest Lands [*and Elliott State Forest Lands*] for grazing purposes or for the exploration and development of minerals, oil or gas, and any consideration received by the Department of State Lands therefor shall be excepted from the provisions of ORS 530.520. However, the Department of State Lands shall cooperate with the forestry program of the State Forester in granting such easements and leases and make provisions therein for continuing the primary purposes for which such land has been dedicated.

SECTION 28. ORS 530.510 is amended to read:

530.510. (1) The State Forester may propose and initiate any exchange of [*land of the Elliott State Forest or*] Common School Forest Lands, or propose and initiate any exchange of timber on such lands, for land of approximately equal aggregate value, when any such exchange is in the furtherance of the purposes of ORS 530.450 to 530.520. However:

[(1) *Any exchange of land of the Elliott State Forest must be for the consolidation of the forest;*]

[(2)] (a) The State Land Board and the State Board of Forestry shall, each separately, approve such exchanges by resolutions of the respective boards; and

[(3)] (b) The county court or board of county commissioners of the county, or counties, in which such land is situated, shall approve such exchange, and after such approval the exchanges shall be consummated by legal conveyance from the Department of State Lands.

[(4)] (2) Under the authority granted in this section, in addition to land to be exchanged, a monetary consideration may be provided or received where necessary to make the values comply with this section. No exchange shall be made until title to the lands to be received has been approved by the Attorney General. All lands received in exchange shall have the same status and be subject to the same provisions of law as the lands given in exchange therefor.

SECTION 29. ORS 530.520 is amended to read:

530.520. (1) Excepting receipts from the easements and leases designated in ORS 530.490 (3), all receipts from [*the Elliott State Forest and*] the Common School Forest Lands shall be paid into the Common School Fund and are continuously appropriated to the Department of State Lands for the purposes for which other moneys in the Common School Fund may be used and to reimburse the Common School Forest Revolving Fund as provided in subsection (2) of this section.

(2)(a) The Common School Forest Revolving Fund, in an amount not exceeding \$300,000, is established as a fund, separate and distinct from the General Fund, in the State Treasury. Interest earned by the fund shall be credited to the fund. The revolving fund is continuously appropriated to the State Forester for the payment of administrative expenses incurred by the State Forester in the management, control and protection of [*the Elliott State Forest and*] the Common School Forest Lands and in processing the sale of forest products and the disposal of privileges under ORS 530.500. The revolving fund shall be reimbursed at least once each month by submission to the Department of State Lands of a claim for payment approved by the State Forester and payment of the claim to the revolving fund out of the Common School Fund, that payment representing a portion of receipts paid into the Common School Fund under subsection (1) of this section.

(b) As used in paragraph (a) of this subsection, “administrative expenses” means a classification of expenses incurred by the State Forester in performing functions referred to in paragraph (a) of this subsection as a whole, rather than expenses incurred in performing any specific function that is a part of the whole; and it means expenditures recognized as operating costs of a current or past period, including refund of overpayments in the sale of forest products, and capital expenditures for buildings, furniture, fixtures or equipment.

(3) After the end of each six-month period the State Forester shall submit to the Department of State Lands a statement of capital asset account balances as of the end of that period for buildings, furniture, fixtures and equipment held by the State Forester in performing functions referred to in subsection (2)(a) of this section and in which the Common School Fund has a vested interest, showing the amount of that interest.

SECTION 30. ORS 30.949 is amended to read:

30.949. (1) As used in this section:

(a) “Access road” means a road owned or maintained by the State Forestry Department.

(b) “Forest practice” has the meaning given that term in ORS 527.620.

(c) “State forestland” means:

(A) Forestland acquired under ORS 530.010 to 530.040; and

(B) Common School Forest Lands [*and Elliott State Forest Lands*] managed under ORS 530.490.

(2) A private entity that contracts with the State Forestry Department to perform a forest practice has a right of action for the amount of actual damages against any person that, while on state forestland or an access road on state forestland, intentionally commits an act that hinders, impairs or obstructs or is an attempt to hinder, impair or obstruct, the performance of the forest practice by the private entity. A court shall award a plaintiff prevailing under this section reasonable attorney fees and costs.

(3) If the contract between the private entity and the department provides for the private entity to perform forest practices in a defined area of state forestland that lies in more than one county, venue for a cause of action under this section is proper in any county containing part of the area of state forestland defined by the contract terms in effect on the date the cause of action arose.

(4) An action under this section must be commenced within two years after the date of the act giving rise to the cause of action.

OPERATIVE DATES

SECTION 31. (1)(a) Sections 1, 2, 4, 5, 7 to 21 and 24 of this 2022 Act and the amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections 23 and 25 to 30 of this 2022 Act become operative on January 1, 2024.

(b) Sections 3 and 6 of this 2022 Act become operative upon completion of all of the events described in subsection (2) of this section.

(2) Notwithstanding subsection (1) of this section, sections 1 to 21 and 24 of this 2022 Act and the amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections 23 and 25 to 30 of this 2022 Act do not become operative unless, on or before July 1, 2023:

(a) The State Land Board ensures that financial obligations to the Common School Fund related to the Elliott State Forest are satisfied;

(b) The State Land Board votes to decouple the Elliott State Forest from the Common School Fund and authorizes actions necessary to transfer the forest to management described in sections 1 to 21 of this 2022 Act;

(c) The National Marine Fisheries Service and the United States Fish and Wildlife Service jointly publish a notice of the availability of a final habitat conservation plan for the Elliott State Forest pursuant to the Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 to 1544) and a final environmental impact statement for the forest pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(d) The Department of State Lands:

(A) Contracts for third-party expertise to provide input informing the department's review of a plan submitted by Oregon State University addressing the financial viability of forest operations and management that are consistent with the mission and management policies described in section 2 of this 2022 Act; and

(B) After considering the input described in subparagraph (A) of this paragraph, concludes that the plan demonstrates financial viability;

(e) The State Land Board approves a forest management plan, as described in section 1 of this 2022 Act, for the Elliott State Research Forest; and

(f) The Board of Trustees of Oregon State University authorizes the university to participate in management of the Elliott State Research Forest.

(3) The State Forester may take any action upon completion of all of the events described in subsection (2) of this section and before the operative date specified in subsection (1)(a) of this section that the State Land Board, the State Board of Forestry, the State Forestry Department or the State Forester deems necessary to prepare for the establishment of the Elliott State Research Forest as described in sections 1 to 21 and 24 of this 2022 Act and the amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections 23 and 25 to 30 of this 2022 Act.

REPORT TO LEGISLATIVE ASSEMBLY

SECTION 32. The State Land Board shall report by September 15, 2023, to an interim or regular committee of the Legislative Assembly related to forests, in the manner described in ORS 192.245, on whether all of the events described in section 31 (2) of this 2022 Act occurred on or before July 1, 2023.

CAPTIONS

SECTION 33. The unit captions used in this 2022 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 2022 Act.

EFFECTIVE DATE

SECTION 34. This 2022 Act takes effect on the 91st day after the date on which the 2022 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by Senate March 1, 2022

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 3, 2022

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Dan Rayfield, Speaker of House

Received by Governor:

.....M,....., 2022

Approved:

.....M,....., 2022

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2022

.....
Shemia Fagan, Secretary of State